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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. SUNUNU].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 13, 1997.

I hereby designate the Honorable JOHN E. SUNUNU to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Nevada [Mr. GIBBONS] for 5 minutes.

VOTE ''NO'' ON MOVING NUCLEAR WASTE TO NEVADA

Mr. GIBBONS. Mr. Speaker, I come here after reading an early morning report in the Congressional Quarterly that a House bill moving nuclear waste to Nevada is rapidly moving to the House floor for consideration of passage. Before House Members consider this bill, I would like to address two issues, the first being that the Senate companion bill to this, Senate bill 104, was narrowly passed in the Senate and will be vetoed by the President under his promise.

Second is the issue that I ask both sides of the aisle to consider, and that is the issue of safety; safety in that they should not vote on a bill that is going to move nuclear waste through their communities, endangering the lives, the health, and the safety of their constituents; throwing away a vote on that issue, throwing away the lives and the health and safety of their constituents, just to prove a point.

Mr. Speaker, I would urge both sides of this House to vote no on moving nuclear waste to Nevada, House bill 1270, and I would issue this proclamation: that the Members should consider that their constituents should come first, that their safety and their lives are at issue here.

WELFARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized during morning hour debates for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning, and certainly to ask the President to disallow portions of the State of Texas welfare reform plan that includes the Texas Integrated Eligibility System, TIES, or which would allow the State to privatize the eligibility determination for social services.

All of us remember very vividly the vigorous debate on welfare reform that this Congress engaged in. At the crux of that issue was the ability to help Americans move from welfare to work. It was a recognition, as I recognized in my own 18th Congressional District, that many of those on welfare wanted to move from welfare to work, and looked forward to the additional job training and opportunity to be able to work and contribute to their own livelihood.

In the State of Texas alone, it has 690,000 recipients of its Aid to Families and Dependent Children, and 1.4 million recipients of food stamps as well. The process that we presently use in the Texas Department of Human Services. Many professionals, social service professionals and social workers, have worked in that effort for many, many years. In the process of welfare reform, not only does Congress but the State itself and the legislature and the Governor recognize that we could do it better. We do not disagree with that, that we could make it more efficient, more effective, and certainly more responsive.

The TIES Program does not do that. It puts in a profit mode with a private company the whole concept of eligibility determination. That means when a mother or a dependent who needs welfare comes to an office, they deal with a cold and uncaring professional, someone whose basic motive is profit, and may be given incentives for how many individuals you deny in getting the need that they have to have.

In the 18th Congressional District alone, there are 109,596 women, infants, and children who receive WIC services, a basic nutrition program that has proven itself to be supportive of the early growth of our children. This means that in Harris County, TX, there are 12,917 pregnant women, 5,259 breastfeeding mothers, 9,448 postpartum mothers who have recently given birth who may be in need of these social services, and 29,000 infants and 52,000 children. It is inappropriate to leave their destiny in the hands of a computer.

Even just recently the Legislature in the State of Texas said that they were concerned that the executive branch might have gone too far in implementing what we authorized in the welfare reform bill. This legislation makes it clear that the legislature retains authority to make these decisions, and makes it clear in statute that the intention is to pursue privatizing only

the automation part, not the intake part, not the sensitivity part, and not to, overall, castigate the thousands of State employees who over the years have been particularly sensitive to the intake process, asking the hard questions and trying to find solutions to those who have problems and who need welfare.

Finding out eligibility is not only in numbers and statistics, it is funding out the problems, the source of the need, why this person is in your office, who else can help them, why do they need to be on welfare. Maybe they only need to be on for a short period of time. A machine and a private company with an incentive for profit only cannot make this system work.

There may be some effort this week to add to the supplemental appropriations bill an amendment to approve this privatized system under the Texas welfare reform package. This should not be approved, for we should have a vigorous debate on the best way to provide efficient, safe, and productive services to the least of those who are in need in our country. Welfare reform, yes, but a totally incentive-based program profit-motivated, to the detriment of women and children and the elderly who need our care and consideration, that is absolutely wrong.

I would hope, first of all, that my colleagues will vote against any amendment that would offer to approve this system, and I would ask the President to disallow this particular provision, for it does not answer the question of efficiency in automation, but it really responds to the question of profit and profit incentive, and it eliminates, as I said, thousands of very valuable State employees who are trained professionally to answer these questions and concerns of the most needy.

We can have welfare reform. Let welfare reform be the kind of welfare reform that responds to the needs of all Americans.

CONGRATULATING FORT BENNING FOR BEING NAMED 1997 ARMY COMMUNITY OF EXCELLENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Georgia [Mr. COLLINS] is recognized during morning hour debates for 5 minutes.

Mr. COLLINS. Mr. Speaker, it is with great pride that I rise today to recognize Fort Benning, GA, the ''home of the infantry'' and the Army's premier installation, for being named a 1997 community of excellence.

On May 2, Fort Benning was awarded the Commander in Chief's Award for the third time in the last 4 years. This award is given annually to recognize the best Army installation in the world. Additionally, on May 1 Fort Benning was awarded the Chief of Staff Army Award for the fifth consecutive year. This award recognizes the best Army installation in the Continental United States. Fort Benning is also the sole nominee of the 1997 Presidential Award for Quality as the Best Agency in the Federal Government.

These awards are indicative of both the ability and professionalism of the tens of thousands of soldiers that pass through Fort Benning's gate each and every year, and of the successful partnership that has been developed over the years between Fort Benning and the Columbus, GA, and Phenix City, AL, districts.

No military facility can be fully effective without developing a positive relationship with the local community. Fort Benning has accomplished this, and has developed a military-civilian team that is unmatched in efficiency and effectiveness.

In spite of the fact that the military population of Fort Benning is in a continuous state of transition, the installation has been able to maintain its high standards of quality. This is, in large part, thanks to nearly 7,000 civilians who work behind the scenes to advance Fort Benning's mission. These are individuals, like Sarah McLaney, Fort Benning's Army Community of Excellence coordinator, who has seen the facility receive the Commander in Chief Award under three different commanding generals. Dedicated workers like Sarah have been instrumental not only in achieving Fort Benning's military mission, but also in development of strong ties that bind Fort Benning with the Columbus and Phenix City communities.

General Ernst and his able staff have further reinforced Fort Benning's longstanding commitment to military quality, focusing on the watchwords ''First in training, first in readiness, and first in quality of life.'' Fort Benning soldiers constitute a cornerstone of our Nation's Armed Forces.

Since 1918 Fort Benning has operated the world's foremost military institutional training center. As the home of the infantry, Fort Benning's mission is to produce the world's finest combat-ready infantrymen, to provide the Nation with a power projection platform capable of rapid deployment, and to continue the Army's premier installation and home for soldiers, families, civilian employees, and military retirees. This mission is achieved with distinction on a daily basis.

While the infantry remains the central focus of activity at Fort Benning, a number of other types of units have been added over the years, enhancing the ability of the installation to accomplish its mission.

In addition to being home of the infantry, Fort Benning now houses the Airborne School, the Army Ranger School, the 29th Infantry Regiment, a training unit for the Bradley fighting vehicle, the 36th Engineer Group, and the U.S. Army School of the Americas. Each of these units work tirelessly to defend our national interests around the world and to serve our communities at home.

To the military and civilian personnel of Fort Benning, I offer my sincere thanks and congratulations for a job well done.

TRIBUTE TO PETER TALI COLEMAN, FORMER GOVERNOR OF AMERICAN SAMOA AND PACIFIC ISLAND LEADER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997 the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning hour debates for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I rise today to pay tribute to Peter Tali Coleman, former Governor of American Samoa and highly regarded Pacific Island leader who passed away on April 28 and was buried last Saturday in Hawaii. He was 77 years of age.

He served as the first popularly elected Governor of American Samoa, was elected again in 1988, and also had the distinction of being Samoa's first and only federally-appointed native-born Governor in the 1950's. His appointment by the Eisenhower administration made him one of the first islanders to serve as the head of a government anywhere in the Pacific, along with Joseph Flores from Guam.

After his appointive term in American Samoa ended, the Governor spent nearly 17 years in the U.S. Trust Territory of the Pacific Islands where, as the first Pacific Islander to head the governments of what are now the Republic of the Marshall Islands from 1961 to 1965, and now the Commonwealth of the Northern Marianas Islands, 1965 to 1969, he is believed to be the only Pacific Islander to have headed 3 of the 21 governments of what is now considered the modern insular Pacific. He was also the first U.S. citizen ever to have been awarded an honorary Marshall Island citizenship, an honor accorded to him by a special act of the Nitijela, the Marshalls' Parliament.

During the Nixon administration Governor Coleman was appointed deputy high commissioner of the Trust Territory, the second-ranking position in the central Government of Micronesia. While in Micronesia, he and his wife were the only Americans invited to participate in a private ceremony sponsored by the Japan-based Association of Bereaved Families, in recognition of his efforts to repatriate to Japan the remains of World War II servicemen who died in action on Saipan.

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Upon the resignation of the High Commissioner, Coleman was appointed as his successor in an acting capacity. A widely recognized regionalist, Governor Coleman was active in numerous Pacific organizations throughout his public career. He was a member of either the United States or American Samoa delegations to the South Pacific Conference nine times between 1958 and 1992 and was head of the delegation to the Conference annually between 1980 and 1984, except for 1982

when he both hosted and chaired the conference in Pago Pago.

At a special SPC meeting in Canberra, Australia, in 1983 and later that year at the conference in Saipan, Coleman was a leading voice in the debate which eventually led to equal membership in SPC for Pacific territories. A founding member of the Pacific Basin Development Council, Coleman was also the first territorial Governor to be elected president of that organization in 1982 and served a second term in 1990.

Peter Tali Coleman was born on December 8, 1919, in Pago Pago, American Samoa, where he received his primary education. He graduated from St. Louis High School in Honolulu, joined the National Guard, and then enlisted in the U.S. Army at the outbreak of World War II. Assigned to the Pacific during the war, he was stationed in the Solomon Islands and Vanuatu in addition to Hawaii, ultimately rising to the rank of captain.

Professionally, as an attorney, he was a member of the bars of the U.S. district court, U.S. Court of Appeals for the District of Columbia, the U.S. District Court in Hawaii, and the High Courts of American Samoa and the old Trust Territory of the Pacific Islands, as well as the Supreme Court of the United States. Granted an honorary LLD by the University of Guam in 1970 when he was cited as ''Man of the Pacific,'' he also received an honorary doctorate from Chaminade College in Hawaii.

Governor Coleman was a true Pacific hero whose service took him well beyond his native Samoa. He accurately saw himself as a developer of indigenous governments, bringing Pacific islanders to full recognition of their right to self-government and their capacity to implement the same.

Coleman was married to the former Nora K. Stewart of Hawaii, his wife of 55 years. Together they had 13 children, 12 of whom are living, 24 grandchildren and 8 great grandchildren. We will all miss him, and we all send his family our condolences.

CBO VERSUS OMB: WHO IS RIGHT?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, my point in coming to the well this morning is to talk about CBO and OMB. These are Beltway terms, I know. The Congressional Budget Office is the CBO; and the Office of Management and Budget Office is the OMB. OMB is used by the White House. That is their in-house accounting firm. The CBO is our in-house accounting firm here in Congress. We use it for out budget analysis.

I wish every Member had an opportunity this afternoon to listen to what I have to say because it brings great bearing on our debate today on the budget and for the remaining 2 or 3 months. In March 1996, with only 6 months left in the fiscal year, OMB projected that the deficit for fiscal year 1996 would be $154 billion. They were wrong, overestimating by almost 44 percent.

Now let us look at CBO. In May 1996, just 4 months remaining in the fiscal year, CBO anticipated the budget deficit for the year would be $144 billion. They too were wrong, overestimating by more than 34 percent. We went from 6 months to 4 months. Now let us go to 1 month and see if these folks are accurate.

With 1 month left in fiscal year 1996, both CBO and OMB estimated that the budget deficit for the year would be around $117 billion. The actual deficit for the year was $107 billion. Both agencies, despite the short period of anticipation, were off by 10 percent.

Mr. Speaker, in other words, neither CBO nor OMB could estimate the budget deficit for the year just 30 days, 30 days, prior to the end of the fiscal year. Yet despite these seemingly inexactitudes, politicians from both sides of the aisle consistently place great credence on these agencies' predictions, often going so far as to base America's entire fiscal policy on their estimates. Sometimes policies are enacted by employing the assumptions from these agencies for as long as the next 5 years in estimating budget data.

Mr. Speaker, if they cannot estimate the budget in 30 days, in 4 months, and in 6 months, how can we expect them to estimate over the next 5 years? CBO and OMB usually disagree sharply on their budget projections, and depending upon which side of an issue one is on, one side is either siding up with OMB or CBO.

In general, CBO is more pessimistic, OMB is more optimistic. Thus, siding with the CBO makes balancing the budget a more daunting task. Despite all of this, both agencies, as I am going to show, are typically wrong altogether. That is, they both err on the same side of the budget. Recently, both agencies have been too pessimistic, consistently overestimating the actual deficit. In the 1980's and in the 1990's, both agencies consistently underestimated the deficit.

Let us now go to the budget agreement that has been recently in the news. When viewed as part of the big picture, the two estimates are essentially identical. For fiscal year 2002, for example, the difference in deficit predictions was $52 billion. But given the odds that both will be off by about $300 billion, you know, it is really almost meaningless to talk about what they are projecting in 5 years.

Furthermore, the agencies' forecasts for the size of the national economy in the year 2002 are almost identical at 10.00, a trillion, for CBO, 10.087 trillion for OMB. To be blunt, Mr. Speaker, any discussion about who is right and who is wrong just does not make any sense given the magnitude of these figures especially when we are talking about a budget projection 5 years from now.

More interestingly than who is closer to right is often the fact that both of them have been essentially wrong and cannot even predict the budget within 30 days. It must be noted that a study of the two agencies' predictions over the last 20 years shows CBO to be closer to right more than OMB. So, perhaps CBO is the one we should follow, although I question that. Fortunately, CBO conducted a large majority of the study, so they had a higher percentage of opportunities to prove they were right.

So, Mr. Speaker, what is the point of all this, what is the lesson to be learned when we look at CBO and OMB and ask them to project out over 5 years? Well, both agencies are quick to point out that the differences between themselves are insignificant and are not good indication of future performance. And I do not know if past performance is a good indication of future performance.

The only certainty that we have this afternoon is that neither one will be absolutely right, and we as Members of Congress should not put a great deal of emphasis on these individual agencies because they both have been wrong. Let me conclude by saying economics is not an exact science and we have to rely on all of us to work together continually to reach a balanced budget and that is the only way we know to reduce the deficit.

NATIONAL HOME OWNERSHIP WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor this afternoon on a particularly happy occasion. I am pleased to see my good friend and colleague, the gentleman from California [Mr. LEWIS], from the other side of the aisle here as well, because I think we come to talk virtually in unison about the same subject. We have just come from a press conference involving Democrats and Republicans to kick off National Home Ownership Week.

I want to thank the gentleman from California [Mr. LEWIS] for deciding to do so with a wonderful initiative here in the District.

The idea, let me be quick to say, is the idea of Representative JERRY LEWIS, who has come forward with an idea that is likely to win favor throughout the country and to be copied throughout the country. Instead of just celebrating National Home Ownership Week with a lot of rhetoric on the floor, true to form, Representative LEWIS would have us do something to indicate our commitment, our continuing commitment, to the proposition

that every family in the United States deserves its own home in which to live. So, in early June, Members of the House will help to build a house in the Capital of the United States.

I expect Members to rush back to their districts this year and next to try to carry out the idea of the gentleman from California [Mr. LEWIS] all over this country. If the spirit of Hershey is alive anywhere, it will be alive, and I believe the date is June 6, when I urge Members from both sides of the aisle to follow the lead of Mr. LEWIS and come to the southeast section of Washington and help us build the house that Congress built.

If Hershey is alive, it will be alive on June 6. If Philadelphia, where the President and where President Bush as well came forward to promote voluntarism, if voluntarism that they promoted is alive as well, it will be alive in June with this action, which should inspire similar action around the country.

Habitat for Humanity is where the expertise is. Here we have also an indication of how an organization can inspire Members to work together from both sides of the aisle, because when you have Representative NEWT GINGRICH and former President Carter working hard always for Habitat and bringing that partnership to Washington, we see bipartisanship at its best.

Habitat for Humanity has quietly been doing this work all over the District of Columbia and all over the country for a very long time, but its meaning is especially deep when Habitat decides to build a house with Members of Congress doing the building, hammering the nails. Posters and shirts with a wonderful design by Vanessa Compos, a fourth grader at a public school in the District, Hyde Elementary School, will be worn on that day, and this poster will be shown all over the United States.

In the resolution sponsored by Mr. LEWIS, there is an important line, among many, ''Whereas, the United States is the first country in the world to make owning a home a reality for a vast majority of families, however, more than a third of the families in the United States are not homeowners.''

Think about how marvelous it is that the average family does own its own home. And when you think about how far we have come, it becomes unthinkable to leave out a minority of families in rural and urban areas who have not yet been able to afford a home.

Affordable housing is not an oxymoron; it is something that this Congress on both sides of the aisle, together with the private sector, know we can make a reality. It is remarkable what we have done. We cannot slide back to where youngsters now wonder if they too can have the kind of home ownership that their parents have. We know they can. When the Congress of the United States moves forward to make the point, even metaphorically, we send a powerful message.

I want to thank the gentleman from California [Mr. LEWIS] as well for reminding us at the press conference that the District of Columbia is one of the Congress' five priorities, not simply building homes, but rebuilding the city itself. It is my hometown, but it is your Capital. The Control Board, together with the city, are making incredible progress starting from the ground to build up. The way to build up for the average family is for Congress to go forward on June 6 offering to do what all of us can do who work together. I thank the gentleman from California [Mr. LEWIS].

THE HOUSE THAT CONGRESS BUILT RESOLUTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. LEWIS] is recognized during morning hour debates for 5 minutes.

Mr. LEWIS of California. Mr. Speaker, I want to express my special appreciation to the gentlewoman from Washington, DC, Ms. ELEANOR HOLMES NORTON, my Congresswoman, for most Members live in the Capitol city when Congress is in session. The gentlewoman mentioned an initiative announced earlier in the day, when we were joined by Speaker NEWT GINGRICH, my colleague, the gentleman from Ohio, LOU STOKES, as well as the founder and President of Habitat for Humanity, Millard Fuller. Also, two very special families gathered at that session to celebrate the initiation of an important event in the history of the Congress and the District of Columbia.

These bipartisan leaders gathered to announce their intent to build ''the House that Congress Built,'' in a unique partnership involving Congress, Housing Secretary Andrew Cuomo, leaders of the National Partners and Homeownership, and others.

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On June 5, 6, and 7, 1997, these leaders will begin construction of two Habitat for Humanity homes in Southeast Washington. Each ''House that Congress Built'' is a powerful symbol demonstrating the commitment of a bipartisan Congress and numerous organizations to one common goal: providing a decent and affordable home for every American family. It is also an appropriate way to kick off National Homeownership Week, which extends from June 7 through June 14, a campaign to emphasize local and national efforts to make the American dream of living in a home a reality.

''The House that Congress Built'' is supported by the National Partners in Homeownership, an unprecedented public-private partnership of organizations working to dramatically increase homeownership in America. Presently this partnership consists of 63 members representing real estate professionals, home builders, nonprofit housing providers, as well as local, State, and Federal levels of government. The goal of this partnership is to achieve an all-time high of homeownership of 67 percent of all American households by the end of the year 2000. There is still much work to be done.

This effort is only possible because of the inspiring work of Millard Fuller, the founder and president of Habitat for Humanity International, who has built over 20 years a worldwide Christian housing ministry. Since its creation in 1976, Habitat for Humanity and its volunteers have built homes with 50,000 families in need in more than 1,300 cities and 50 countries. As a result of Mr. Fuller's vision, more than 250,000 people across the globe now have safe, decent, affordable homes.

In Philadelphia recently, President Clinton, President Bush, retired Gen. Colin Powell and others gathered together to salute the spirit of volunteer service that exists in this country. No other organization better illustrates this spirit than Habitat for Humanity. Habitat is an organization that brings people together. Its volunteers are as diverse as the people who live in the United States itself. Most important, Habitat for Humanity promotes what Millard Fuller describes as the theology of the hammer, namely, putting faith and love into action to serve others.

In this case, the theology of the hammer will be applied to assist two very special, soon-to-be homeowners, Marlene Hunter and her family, and Mary Collins and her family. Even before the first nail has been driven, Members of Congress, corporate sponsors and these families have made a commitment that will be fulfilled as these two homes are built this summer entirely by Members of Congress and their staff.

I want to thank my colleagues, the gentleman from Georgia [Mr. GINGRICH], the gentleman from Missouri [Mr. GEPHARDT], the gentlewoman from the District of Columbia [Ms. NORTON], the gentleman from Ohio [Mr. STOKES], the gentleman from New York [Mr. LAZIO] and the gentleman from Massachusetts [Mr. KENNEDY] for their commitment to this unique effort and for joining me in introducing this resolution today. Beyond that, I hope my colleagues and their staff will join us throughout Homeownership Week and throughout the summer to complete the project well before ribbon-cutting time early in the fall.

FEDERAL RESERVE AND INTEREST RATES

The SPEAKER pro tempore (Mr. SUNUNU). Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey [Mr. SAXTON] is recognized during morning hour debates for 5 minutes.

Mr. SAXTON. Mr. Speaker, few issues are as important as those policies of the Federal Reserve that affect American money. Policies of the Federal Reserve can determine whether

there is high inflation or low inflation. Those policies can determine as well whether we can influence interest rates both in the short as well as in the long term.

Sound monetary policies can create a framework favorable to economic growth, while policies that permit inflation to take place undermine economic growth. We are all concerned about job creation. We are all concerned about good wages. And it is primary to the policies that come out of the Federal Reserve as to whether or not those issues are able to take place.

Over the last few months I have released a number of studies on Federal Reserve policy in my capacity as chairman of the Joint Economic Committee. We call the committee the JEC. These studies explain the reasons why inflation or the lack of it, known as price stability, should remain as the central focus of Federal Reserve policy. According to this research, the Federal Reserve's anti-inflation policy has worked well over the last few years. However, more recently, I have had some disagreements with the Fed about price stability and how it should be implemented.

Is inflation taking place? It does not look so. But our JEC research suggests that, if there is inflation, it should be visible in real terms, in price measures such as the Consumer Price Index, which indicate today no inflation or no appreciable inflation. It should also be evident in prices of raw materials like commodity prices. It should also be evident in the value of the dollar as opposed to the German mark or the Japanese yen. It does not seem like there is any inflation there. And it should be evident in bond yields.

Now, according to these price measures, there is no real evidence of inflation to justify Federal Reserve increases in interest rates. Yet the Federal Reserve seems to view economic growth itself as potentially inflationary. Now, imagine that for a minute, economic growth as being bad because economic growth means inflation. I do not think that is true.

Based on our research, in fact, the JEC has done, I have opposed the increase in interest rates announced by the Federal Open Market Committee of the Fed on March 25. According to price measures used by the Joint Economic Committee, there is no indication of inflation justifying this increase in interest rates. For the same reason, I do not think the evidence would support an increase in interest rates at the FOMC next Tuesday.

In connection with this research, I have also suggested that more openness is needed with Fed policy. Why should we as members of the public be trying to guess about what they are going to do? It creates instability. It creates guessing. People should not have to make investments based on their best guess. They should do so for good sound reasons.

Having to guess about Fed policy is not good for our economy.

In conclusion, there is no substantial evidence of inflation to support Federal Reserve action to raise interest rates. I am extremely supportive of the objective of price stability. Nobody wants inflation. But I do not agree with those at the Fed who tend to view economic growth itself, economic growth itself as potentially inflationary.

Furthermore, Federal Reserve efforts to be more open and transparent should be encouraged and continued.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2:00 p.m. today.

Accordingly (at 1 o'clock and 7 minutes p.m.) the House stood in recess until 2 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. PEASE] at 2 p.m.

PRAYER

The Chaplain, Rev. James David FORD, D.D., offered the following prayer:

We offer our thanks and praise to You, O gracious God, for all of those gifts of life that make our days worthwhile and our relationships more meaningful. On this day we are especially aware of the blessings of joy and happiness that can come from Your hand and which we can share with each other. In spite of the difficulties of every decision, and the anxieties associated with every day, we are delighted that we can experience the elation and jubilation that comes when these special gifts brighten our vision and give us new horizons on which to focus. May joy and happiness brighten our lives and may Your benediction, O God, never depart from us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. WICKER] come forward and lead the House in the Pledge of Allegiance.

Mr. WICKER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, May 9, 1997 at 10:34 a.m.:

That the Senate passed without amendment H. Con. Res. 25

That the Senate passed S. Con. Res. 26

That the Senate appointed Commission on Maintaining U.S. Nuclear Weapons Expertise

That the Senate appointed Board of Visitors of the U.S. Coast Guard Academy, and

That the Senate appointed Board of Visitors of the U.S. Merchant Marine Academy.

With warm regards,

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

TRIBUTE TO MARGARET MARTIN BROCK

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, it saddens me to inform the House that this past Saturday, America lost noted philanthropist and political activist, Margaret Martin Brock.

Margaret Brock was a leader in education, civic organizations and in State and national Republican politics. She was a close personal friend of five U.S. Presidents and served proudly as a member of Ronald Reagan's kitchen cabinet. She was a confident and counselor to officeholders throughout the Nation, many here in the Congress who benefited from her encouragement, support, political insight, and friendship.

Her genuine interest was in young people. She actively sought out and helped many students further their education. She believed that her investments in young people, especially through funding of scholarships, were investments in the future of our country. She was a strong supporter of my alma mater, Claremont McKenna College, Pepperdine University, and the University of Southern California, in addition to her own Mt. Vernon College located here in our Nation's Capital.

She was proud to be a native Californian and throughout her life contributed to the betterment of our State. She actively supported the Los Angeles Mission, Salvation Army, Goodwill Industries, and the Boy Scouts of America. She was a founding member of the Los Angeles Music Center and a founding member of the Junior League of Los Angeles.

Margaret Brock's generous encouragement led many of us to choose public service. Her support of higher education and the Republican Party leaves

a legacy that will continue for generations to come.

NAFTA IS NOT WORKING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the White House says NAFTA is creating new and exciting jobs. I did some research on those jobs: zipper trimmer, brassiere tender, jelly roller, bosom presser, chicken sexer, sanitary napkin specialist, and a pantyhose crotch closer machine operator. That is what I call exciting jobs, Mr. Speaker.

According to the Philadelphia Inquirer, they are so great that 90 percent of the American workers are literally worried sick about losing their jobs and losing their homes. Beam me up. I say NAFTA is working for Mexico, Chile, Canada, yes, even Japan and China. Think about it.

With that I yield back all the balance of those unsexed chickens.

BALANCED BUDGET AGREEMENT IS GOOD NEWS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, when politicians get together and tell me what a wonderful job they are doing, I start to get nervous. But every once in a while, people on both sides of the aisle do manage to arrive at a good agreement.

Now, of course, the media will be annoyed; they need conflict. In fact, it is great fun watching the media desperately search for conflict in the balanced budget agreement that was reached between President Clinton and Congress. Even though the media hates good news, the good news needs to be reported.

The story that must be reported is that this balanced budget agreement is a win for every American family. It contains permanent tax relief, it contains the largest entitlement reform in history, it expands Medicare choices for seniors, it balances the budget for the first time since 1969. In a town where good news is sometimes hard to find, let us go forward and pass this historic agreement and send a little good news to American families.

RESTORE WIC FUNDING

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, I rise today to urge my colleagues on the Committee on Rules to support an amendment to restore the full $76 million needed for the women, infants and children program. Let me make three important points about this funding.

WIC is a program that works. If we restore the $38 million today, we will actually save the Federal Government over $100 million down the road. Second, the States, not the administration, not the Democrats in Congress, the States say that they need this money or else they will be forced to remove women and children from the WIC Program.

Finally, let us remember the values that made this Nation great. We simply cannot in good conscience take food off the breakfast tables of the most vulnerable members of our society. I urge the Committee on Rules to allow this amendment. I urge my colleagues to restore the full amount of the President's authorization for women, infants, and children in this country.

DEFICIT SPENDING BAD HABIT NEEDS TO BE BROKEN

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, bad habits are hard to break. In fact, the longer one engages in a bad habit, the harder it is to break.

Deficit spending is an excellent example of a bad habit. Deficit spending means spending more money than we have. This is what the Government does year after year. If we add up all of the deficit, we will find out that the national debt now stands over $5 trillion.

Washington has not managed to balance the budget since 1969. The tragedy in this is that the politicians who vote to run up deficits year after year are not the ones who suffer the consequences of their spending habits. Who suffers the consequences? You guessed it. Future generations, our children and grandchildren, the children are stuck with the debt. That is not right, that is not fair to children growing up today who deserve the same opportunities that we have.

Mr. Speaker, it is time to break the bad habit. It is time that this Congress pass a balanced budget.

BALANCED BUDGET AGREEMENT PLEDGE FOR BETTER TOMORROW

(Mr. WICKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WICKER. Mr. Speaker, let's see if I have this straight. We are supposed to be impressed that the Government is not going to spend more money than it has. We are supposed to rejoice that Government is not going to make our $5 trillion national debt any worse. I am supposed to brag to my constituents that Washington is finally going to balance the budget.

Well, Mr. Speaker, by Washington standards, a balanced budget is a cause for celebration. Balancing the budget should not be a big deal, it should not be treated as some great achievement, but I must say after 30 years of an ever-expanding welfare state, balancing the budget is no mean feat. Balancing the budget, which to millions of Americans is nothing but common sense, is extraordinary in a town that has seen budget deficits since 1969.

This new balanced budget agreement is proof of two things. First, the new Republican Congress is serious about its pledge to make Government live within its means; and second, deficit spending does not have to be a way of life. That is a cause for celebration.

HISTORY OF DALLAS, GA

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BARR of Georgia. Mr. Speaker, yesterday I had the honor of appearing in Dallas, GA at a ceremony marking the 145th anniversary of this beautiful and wonderful community located in the heart of the 7th District of Georgia. Dallas, GA is named after a distinguished American, George Mifflin Dallas, a former U.S. Senator and Vice President of the United States under President Polk.

Dallas, GA has a quality of life, Mr. Speaker, that is an envy of communities all across America and around the world. This is especially true under the leadership of our current mayor, Mr. Boyd Austin, just recently and very appropriately named citizen of the year by the Paulding County Chamber of Commerce.

I rise today to honor this great American community whose greatest days lie yet ahead, Dallas, GA.

TIME TO BITE THE BULLET FOR BALANCED BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, why is it so important to balance the budget? I get that question quite a bit when I speak to school groups back in my district.

Well, it is a fair question. After all, the economy has been doing OK lately and we have not had a balanced budget. Perhaps the best way to answer this question is to consider a person using a credit card who spends a little bit more than he makes each month. Every month when the bill comes, he pays off part of it, maybe just the minimum amount possible. Well, he can keep that up for a while, but eventually the mounting debt will overwhelm him and threaten his standard of living. The interest payments he is required to make each month just keep getting bigger and bigger.

Well, that is exactly what has happened to the Federal Government. A $5 trillion debt that we have, unbelievable. It is time to get a grip. We need to balance the budget and start putting our financial house in order before it is too late.

Let us cut the tax rate on the American people. The people of this country are overtaxed. Let us do something about it and let us do it now.

OPPORTUNITY FOR BALANCED BUDGET IS HERE

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, for a lot of us conservatives, the key question we are asking about the balanced budget agreement between Congress and the President is whether the agreement on the whole represents a step forward or a step backward. Does this bipartisan compromise bring us closer or farther away from our goals to balance the budget, provide tax relief for American families, and reduce the size of government?

Mr. Speaker, this is not a decision that I take lightly. I would like to see deeper tax cuts, more substantial entitlement reform, and more reductions in domestic spending. Nonetheless, we should not underestimate the opportunity this budget agreement represents.

Unlike past budget agreements that promised to balance the budget, with a Republican Congress, this one actually will. It contains permanent tax cuts, it takes a first step toward entitlement reform, and this represents a step forward.

I compliment the budget negotiators and look forward to receiving the details of this plan.

BALANCED BUDGET AGREEMENT IS SOLID FIRST STEP

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, as a member of the House Committee on the Budget, I rise in strong support of the balanced budget plan of 1997. After months of unceasing work, the Republican majority has delivered a balanced budget plan where every American wins.

While all the details have not been worked out yet, like the level of funding for transportation, this agreement is a solid first step in the Republican goals of balancing our budget, reducing the size and scope of the Federal Government and providing permanent tax relief for American families.

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With this agreement, American families will pay $135 billion less in taxes over the next 5 years. It will save Medicare for seniors, produce approximately $700 billion in entitlement savings over the next 10 years, and finally, ensure that every American benefits from the economic boon of a balanced budget by 2002. That means lower interest rates, higher-paying jobs, and long-term economic growth.

Mr. Speaker, compromise is essential with divided government. I applaud those who achieve this compromise. I look forward to passing the balanced budget plan of 1997 and the accompanying bills, which will be a first step in getting our fiscal house in order.

DO THE RIGHT THING FOR WIC

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, tomorrow the Republican leadership will have a chance to redeem itself and prove they are for America's children.

A few weeks ago in the Committee on Appropriations, Republicans largely voted to gut the women, infants and children's WIC nutrition program. Republican leaders denied the nutrition needs of approximately 880,000 at-risk children by not supporting the full funding request that was made by all 50 Governors and the administration.

Republican extremists are arguing that WIC does not need full funding. They would rather deny children their nutrition needs than make up the $38 million shortfall. Mr. Speaker, many religious and antihunger advocates such as Catholic Charities, U.S.A., have written me citing that WIC is effective, efficient, and cost-beneficial. They are urging Congress to be compassionate to children, and meet their needs.

Mr. Speaker, let us do the right thing and get our priorities straight as we go into the budget process. In order to accomplish that, we need to fully fund the WIC Program.

A BUDGET FOR THE TAXPAYERS

(Mr. COOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOK. Mr. Speaker, I think the middle class has been getting a raw deal long enough. It should be getting easier to start a family and to buy a house, not harder. It should be getting easier to save for college tuition for your kids, not harder. It should be getting easier to make ends meet, not harder.

So what is the problem? The problem is simple. It is the fact that Congress has not been presenting budgets that are balanced, and it is because Congress has been presenting budgets that raise taxes. I think it is time Congress does exactly the opposite. I think it is time the middle class got a break, instead of giving all the breaks to the special interest groups.

That is why this balanced budget agreement should be ratified. It should be supported and voted on here in the House. It lets American families keep a lot more of what they earn, and it balances the budget for the first time since 1969.

This is a budget for the forgotten middle class. I think it is time to pass a budget for the taxpaying middle class.

A REALISTIC PROJECTION BY THE CONGRESSIONAL BUDGET OFFICE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, the budget agreement that has been pretty much accomplished is nobody's gift to the conservatives or the liberals. It has good news and bad news. We now have a Federal Government that has become very big, very large, very intrusive—taxing too much and borrowing too much. This budget agreement moves us in the right direction of reducing some of those huge tax increases of 1990 and 1991 and reducing spending over the long run.

I questioned the analysis of the Congressional Budget Office in coming up with a last-minute $225 billion. But in talking to CBO, they have predicted ups and downs, some recession in the economy, but the average estimated increase in the GDP over the next 5 years is 2.1 percent. Probably not overoptimistic.

I see some of the bad news as provisions in the agreement that only allows for a net tax reduction of $85 billion over the next five years. However for the good news, there will be a tax decrease, a tax cut, over the next 10 years of $250 billion.

Cut wasteful Government spending and we'll be moving in the right direction.

URGING MEMBERS TO READ AND CONSIDER ''LETTERS FROM A CHINESE JAIL''

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, for nearly 20 years the Chinese Government has sought to silence one of the great advocates of human freedom and democracy, Wei Jingsheng.

Wei recently published a book. It is out today. Viking Press has produced it. It consists largely of his letters from prison, where he has spent so much of his adult life, where he is today, assembled by people who believe in human rights around the world. The publication of this book in America has today prompted the Communist Chinese Government to say that we, by publishing Wei's book, are interfering with the independence of China's judiciary.

Wei Jingsheng is not a well man. He suffers from life-threatening heart disease. He has a neck problem that prevents him from lifting his head. All of this has developed as a result of the abysmal conditions that he faces in prison, where he was recently sentenced to another 14 years. He is due to be released in the year 2009, if he lives that long.

I hope all of us in Congress will remember Wei Jingsheng, buy his book and read it, as we deliberate on the important questions of human freedom that are before us today.

REFORMING THE WIC PROGRAM REQUIRES BIPARTISAN COOPERATION

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I heard the gentleman from New Jersey, our colleague, talk about the women's, infants' and children's program, so I wanted to take the floor just to explain for a moment that through the years the WIC Program, as it is known, has received strong bipartisan support from both Republicans and Democrats because of its effectiveness in reducing low weight births and reducing birth defects resulting from nutritional deficiencies during pregnancy.

The administration did request $76 million for additional enrollments in the WIC Program as part of the supplemental appropriations bill that will be on the floor tomorrow, and that bill actually contains half of the administration's request, $38 million.

I am going to offer an amendment to restore the other $38 million, but with a caveat, that being that later this fall in the committee that I chair on children, youth, and families, we are going to be looking at a number of structural and policy issues associated with this program, why it must have $100 million in carryover funds, why the administration has asked for an additional $100 million on our contingency funds in their 1998 budget request.

I hope we can get the same sort of bipartisan support and cooperation on the necessary policy reforms to the WIC Program as I suspect we will on my amendment to the supplemental appropriations bill tomorrow.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Individuals with Disabilities Education Act Amendments of 1997''.

TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Parts A through D of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) are amended to read as follows:

''PART A—GENERAL PROVISIONS

''SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

''(a) SHORT TITLE.—This Act may be cited as the 'Individuals with Disabilities Education Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''(c) FINDINGS.—The Congress finds the following:

''(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

''(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142)—

''(A) the special educational needs of children with disabilities were not being fully met;

''(B) more than one-half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;

''(C) 1,000,000 of the children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;

''(D) there were many children with disabilities throughout the United States participating in regular school programs whose disabilities prevented such children from

having a successful educational experience because their disabilities were undetected; and

''(E) because of the lack of adequate services within the public school system, families were often forced to find services outside the public school system, often at great distance from their residence and at their own expense.

''(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

''(4) However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

''(5) Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

''(A) having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible;

''(B) strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

''(C) coordinating this Act with other local, educational service agency, State, and Federal school improvement efforts in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

''(D) providing appropriate special education and related services and aids and supports in the regular classroom to such children, whenever appropriate;

''(E) supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them—

''(i) to meet developmental goals and, to the maximum extent possible, those challenging expectations that have been established for all children; and

''(ii) to be prepared to lead productive, independent, adult lives, to the maximum extent possible;

''(F) providing incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs; and

''(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results.

''(6) While States, local educational agencies, and educational service agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

''(7)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

''(B) America's racial profile is rapidly changing. Between 1980 and 1990, the rate of increase in the population for white Americans was 6 percent, while the rate of increase for racial and ethnic minorities was much higher: 53 percent for Hispanics, 13.2 percent for African-Americans, and 107.8 percent for Asians.

''(C) By the year 2000, this Nation will have 275,000,000 people, nearly one of every three of whom will be either African-American, Hispanic, Asian-American, or American Indian.

''(D) Taken together as a group, minority children are comprising an ever larger percentage of public school students. Large-city school populations are overwhelmingly minority, for example: for fall 1993, the figure for Miami was 84 percent; Chicago, 89 percent; Philadelphia, 78 percent; Baltimore, 84 percent; Houston, 88 percent; and Los Angeles, 88 percent.

''(E) Recruitment efforts within special education must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

''(F) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education. The Department of Education has found that services provided to limited English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

''(8)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

''(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

''(C) Poor African-American children are 2.3 times more likely to be identified by their teacher as having mental retardation than their white counterpart.

''(D) Although African-Americans represent 16 percent of elementary and secondary enrollments, they constitute 21 percent of total enrollments in special education.

''(E) The drop-out rate is 68 percent higher for minorities than for whites.

''(F) More than 50 percent of minority students in large cities drop out of school.

''(9)(A) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

''(B) In 1993, of the 915,000 college and university professors, 4.9 percent were African-American and 2.4 percent were Hispanic. Of the 2,940,000 teachers, prekindergarten through high school, 6.8 percent were African-American and 4.1 percent were Hispanic.

''(C) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

''(D) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

''(E) Ten years ago, 12 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 13 percent minority, while one-third of the students in public schools are minority children.

''(F) As recently as 1991, historically black colleges and universities enrolled 44 percent of the African-American teacher trainees in the Nation. However, in 1993, historically black colleges and universities received only 4 percent of the discretionary funds for special education and related services personnel training under this Act.

''(G) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

''(H) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

''(10) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

''(d) PURPOSES.—The purposes of this title are—

''(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

''(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

''(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

''(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

''(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

''(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

''SEC. 602. DEFINITIONS.

''Except as otherwise provided, as used in this Act:

''(1) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

''(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

''(A) the evaluation of the needs of such child, including a functional evaluation of

the child in the child's customary environment;

''(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

''(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

''(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

''(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

''(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

''(3) CHILD WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'child with a disability' means a child—

''(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

''(ii) who, by reason thereof, needs special education and related services.

''(B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 may, at the discretion of the State and the local educational agency, include a child—

''(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

''(ii) who, by reason thereof, needs special education and related services.

''(4) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'—

''(A) means a regional public multiservice agency—

''(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

''(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

''(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

''(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

''(6) EQUIPMENT.—The term 'equipment' includes—

''(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

''(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

''(7) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

''(A) amounts received—

''(i) under part B of this title;

''(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; or

''(iii) under part A of title VII of that Act; and

''(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

''(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—

''(A) have been provided at public expense, under public supervision and direction, and without charge;

''(B) meet the standards of the State educational agency;

''(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

''(D) are provided in conformity with the individualized education program required under section 614(d).

''(9) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.

''(10) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

''(11) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

''(12) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given such term in section 636.

''(13) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given such term in section 632.

''(14) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

''(A) has the meaning given that term in section 1201(a) of the Higher Education Act of 1965; and

''(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

''(15) LOCAL EDUCATIONAL AGENCY.—

''(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

''(B) The term includes—

''(i) an educational service agency, as defined in paragraph (4); and

''(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(16) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.

''(17) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(18) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(19) PARENT.—The term 'parent'—

''(A) includes a legal guardian; and

''(B) except as used in sections 615(b)(2) and 639(a)(5), includes an individual assigned under either of those sections to be a surrogate parent.

''(20) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given that term in section 682(g).

''(21) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under section 682 or 683.

''(22) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

''(23) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

''(24) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(25) SPECIAL EDUCATION.—The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

''(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

''(B) instruction in physical education.

''(26) SPECIFIC LEARNING DISABILITY.—

''(A) IN GENERAL.—The term 'specific learning disability' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

''(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

''(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

''(27) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(28) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

''(29) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means, aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

''(30) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student with a disability that—

''(A) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

''(B) is based upon the individual student's needs, taking into account the student's preferences and interests; and

''(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

''SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

''(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

''(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

''(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

''SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.

''(a) IN GENERAL.—A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

''(b) REMEDIES.—In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

''(c) EFFECTIVE DATE.—Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.

''SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

''(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

''(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

''(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or

''(2) appendix A of part 101-19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

''SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

''The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.

''SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

''(a) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

''(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

''(c) POLICY LETTERS AND STATEMENTS.—The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this part without following the requirements of section 553 of title 5, United States Code.

''(d) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

''(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

''(2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate.

''(e) ISSUES OF NATIONAL SIGNIFICANCE.—If the Secretary receives a written request regarding a policy, question, or interpretation under part B of this Act, and determines that it raises an issue of general interest or applicability of national significance to the implementation of part B, the Secretary shall—

''(1) include a statement to that effect in any written response;

''(2) widely disseminate that response to State educational agencies, local educational agencies, parent and advocacy organizations, and other interested organizations, subject to applicable laws relating to confidentiality of information; and

''(3) not later than one year after the date on which the Secretary responds to the written request, issue written guidance on such policy, question, or interpretation through such means as the Secretary determines to be appropriate and consistent with law, such as a policy memorandum, notice of interpretation, or notice of proposed rulemaking.

''(f) EXPLANATION.—Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under part B of this Act shall include an explanation that the written response—

''(1) is provided as informal guidance and is not legally binding; and

''(2) represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.

''PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

''SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS TO STATES.—

''(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

''(2) MAXIMUM AMOUNTS.—The maximum amount of the grant a State may receive under this section for any fiscal year is—

''(A) the number of children with disabilities in the State who are receiving special education and related services—

''(i) aged three through five if the State is eligible for a grant under section 619; and

''(ii) aged six through 21; multiplied by

''(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.

''(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES.—

''(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve not more than one percent, which shall be used—

''(A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged three through 21; and

''(B) for fiscal years 1998 through 2001, to carry out the competition described in paragraph (2), except that the amount reserved to carry out that competition shall not exceed the amount reserved for fiscal year 1996 for the competition under part B of this Act described under the heading ''SPECIAL EDUCATION'' in Public Law 104–134.

''(2) LIMITATION FOR FREELY ASSOCIATED STATES.—

''(A) COMPETITIVE GRANTS.—The Secretary shall use funds described in paragraph (1)(B) to award grants, on a competitive basis, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States to carry out the purposes of this part.

''(B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii. Those recommendations shall be made by experts in the field of special education and related services.

''(C) ASSISTANCE REQUIREMENTS.—Any freely associated State that wishes to receive funds under this part shall include, in its application for assistance—

''(i) information demonstrating that it will meet all conditions that apply to States under this part;

''(ii) an assurance that, notwithstanding any other provision of this part, it will use those funds only for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make a free appropriate public education available to all children with disabilities;

''(iii) the identity of the source and amount of funds, in addition to funds under this part, that it will make available to ensure that a free appropriate public education is available to all children with disabilities within its jurisdiction; and

''(iv) such other information and assurances as the Secretary may require.

''(D) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the freely associated States shall not receive any funds under this part for any program year that begins after September 30, 2001.

''(E) ADMINISTRATIVE COSTS.—The Secretary may provide not more than five percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

''(3) LIMITATION.—An outlying area is not eligible for a competitive award under paragraph (2) unless it receives assistance under paragraph (1)(A).

''(4) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas or to the freely associated States under this section.

''(5) ELIGIBILITY FOR DISCRETIONARY PROGRAMS.—The freely associated States shall be eligible to receive assistance under subpart 2 of part D of this Act until September 30, 2001.

''(6) DEFINITION.—As used in this subsection, the term 'freely associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(c) SECRETARY OF THE INTERIOR.—From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (i).

''(d) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—After reserving funds for studies and evaluations under section 674(e), and for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or subsection (e), as the case may be.

''(2) INTERIM FORMULA.—Except as provided in subsection (e), the Secretary shall allocate the amount described in paragraph (1) among the States in accordance with section 611(a)(3), (4), and (5) and (b)(1), (2), and (3) of this Act, as in effect prior to the enactment of the Individuals with Disabilities Education Act Amendments of 1997, except that the determination of the number of children with disabilities receiving special education and related services under such section 611(a)(3) may, at the State's discretion, be calculated as of the last Friday in October or as of December 1 of the fiscal year for which the funds are appropriated.

''(e) PERMANENT FORMULA.—

''(1) ESTABLISHMENT OF BASE YEAR.—The Secretary shall allocate the amount described in subsection (d)(1) among the States in accordance with this subsection for each fiscal year beginning with the first fiscal year for which the amount appropriated under subsection (j) is more than $4,924,672,200.

''(2) USE OF BASE YEAR.—

''(A) DEFINITION.—As used in this subsection, the term 'base year' means the fiscal year preceding the first fiscal year in which this subsection applies.

''(B) SPECIAL RULE FOR USE OF BASE YEAR AMOUNT.—If a State received any funds under this section for the base year on the basis of children aged three through five, but does not make a free appropriate public education available to all children with disabilities aged three through five in the State in any subsequent fiscal year, the Secretary shall compute the State's base year amount, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for the base year on the basis of those children.

''(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

''(A)(i) Except as provided in subparagraph (B), the Secretary shall—

''(I) allocate to each State the amount it received for the base year;

''(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

''(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

''(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

''(ii) No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount it received for the base year; and

''(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for the base year;

''(II) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

''(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount it received for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

''(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) If the amount available for allocations is greater than the amount allocated to the States for the base year, each State shall be allocated the sum of—

''(i) the amount it received for the base year; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over the base year bears to the total of all such increases for all States.

''(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for the base year, each State shall be allocated the amount it received for the base year.

''(ii) If the amount available is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

''(f) STATE-LEVEL ACTIVITIES.—

''(1) GENERAL.—

''(A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2) and (3).

''(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

''(C) A State may use funds it retains under subparagraph (A) without regard to—

''(i) the prohibition on commingling of funds in section 612(a)(18)(B); and

''(ii) the prohibition on supplanting other funds in section 612(a)(18)(C).

''(2) STATE ADMINISTRATION.—

''(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)—

''(i) each State may use not more than twenty percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

''(ii) each outlying area may use up to five percent of the amount it receives under this

section for any fiscal year or $35,000, whichever is greater.

''(B) Funds described in subparagraph (A) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(3) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under paragraph (1) and does not use for administration under paragraph (2) for any of the following:

''(A) Support and direct services, including technical assistance and personnel development and training.

''(B) Administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985.

''(C) To establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel.

''(D) To assist local educational agencies in meeting personnel shortages.

''(E) To develop a State Improvement Plan under subpart 1 of part D.

''(F) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State Improvement Plan under subpart 1 of part D if the State receives funds under that subpart.

''(G) To supplement other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section. This system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under part C of this Act.

''(H) For subgrants to local educational agencies for the purposes described in paragraph (4)(A).

''(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR CAPACITY-BUILDING AND IMPROVEMENT.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to assist them in providing direct services and in making systemic change to improve results for children with disabilities through one or more of the following:

''(i) Direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.

''(ii) Addressing needs or carrying out improvement strategies identified in the State's Improvement Plan under subpart 1 of part D.

''(iii) Adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources.

''(iv) Establishing, expanding, or implementing interagency agreements and arrangements between local educational agencies and other agencies or organizations concerning the provision of services to children with disabilities and their families.

''(v) Increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution.

''(B) MAXIMUM SUBGRANT.—For each fiscal year, the amount referred to in subparagraph (A) is—

''(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by

''(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

''(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

''(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

''(B) how those amounts will be allocated among the activities described in paragraphs (2) and (3) to meet State priorities based on input from local educational agencies; and

''(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.

''(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (f) (at least 75 percent of the grant funds) to local educational agencies in the State that have established their eligibility under section 613, and to State agencies that received funds under section 614A(a) of this Act for fiscal year 1997, as then in effect, and have established their eligibility under section 613, for use in accordance with this part.

''(2) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) INTERIM PROCEDURE.—For each fiscal year for which funds are allocated to States under subsection (d)(2), each State shall allocate funds under paragraph (1) in accordance with section 611(d) of this Act, as in effect prior to the enactment of the Individuals with Disabilities Education Act Amendments of 1997.

''(B) PERMANENT PROCEDURE.—For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:

''(i) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for the base year, as defined in subsection (e)(2)(A), if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

''(ii) ALLOCATION OF REMAINING FUNDS.—After making allocations under clause (i), the State shall—

''(I) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

''(II) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(3) FORMER CHAPTER 1 STATE AGENCIES.—

''(A) To the extent necessary, the State—

''(i) shall use funds that are available under subsection (f)(1)(A) to ensure that each State agency that received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 receives, from the combination of funds under subsection (f)(1)(A) and funds provided under paragraph (1) of this subsection, an amount equal to—

''(I) the number of children with disabilities, aged 6 through 21, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, subject to the limitation in subparagraph (B); multiplied by

''(II) the per-child amount provided under such subpart for fiscal year 1994; and

''(ii) may use those funds to ensure that each local educational agency that received fiscal year 1994 funds under that subpart for children who had transferred from a State-operated or State-supported school or program assisted under that subpart receives, from the combination of funds available under subsection (f)(1)(A) and funds provided under paragraph (1) of this subsection, an amount for each such child, aged 3 through 21 to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994.

''(B) The number of children counted under subparagraph (A)(i)(I) shall not exceed the number of children aged 3 through 21 for whom the agency received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

''(4) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

''(h) DEFINITIONS.—For the purpose of this section—

''(1) the term 'average per-pupil expenditure in public elementary and secondary schools in the United States' means—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus

''(ii) any direct expenditures by the State for the operation of those agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

''(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(i) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

''(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

''(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with

disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year.

''(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as 'BIA') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

''(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

''(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

''(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

''(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

''(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

''(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

''(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

''(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

Section 616(a) shall apply to the information described in this paragraph.

''(3) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—

''(A) IN GENERAL.—With funds appropriated under subsection (j), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

''(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

''(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

''(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(E) BIENNIAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

''(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

''(4) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

''(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(21), the Secretary of the Interior shall establish, not later than 6 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

''(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

''(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

''(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

''(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

''(E) provide assistance in the preparation of information required under paragraph (2)(D).

''(6) ANNUAL REPORTS.—

''(A) IN GENERAL.—The advisory board established under paragraph (5) shall prepare and submit to the Secretary of the Interior and to the Congress an annual report containing a description of the activities of the advisory board for the preceding year.

''(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

''(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated such sums as may be necessary.

''SEC. 612. STATE ELIGIBILITY.

''(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:

''(1) FREE APPROPRIATE PUBLIC EDUCATION.—

''(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

''(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children:

''(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

''(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility:

''(I) were not actually identified as being a child with a disability under section 602(3) of this Act; or

''(II) did not have an Individualized Education Program under this part.

''(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

''(3) CHILD FIND.—

''(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

''(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

''(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

''(5) LEAST RESTRICTIVE ENVIRONMENT.—

''(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

''(B) ADDITIONAL REQUIREMENT.—

''(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

''(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

''(6) PROCEDURAL SAFEGUARDS.—

''(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

''(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

''(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.

''(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(c) (relating to the confidentiality of records and information).

''(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

''(10) CHILDREN IN PRIVATE SCHOOLS.—

''(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

''(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

''(I) Amounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

''(II) Such services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law.

''(ii) CHILD-FIND REQUIREMENT.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools.

''(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

''(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

''(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

''(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

''(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

''(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

''(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

''(I) if—

''(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

''(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

''(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

''(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

''(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if—

''(I) the parent is illiterate and cannot write in English;

''(II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child;

''(III) the school prevented the parent from providing such notice; or

''(IV) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I).

''(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

''(A) IN GENERAL.—The State educational agency is responsible for ensuring that—

''(i) the requirements of this part are met; and

''(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

''(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

''(II) meet the educational standards of the State educational agency.

''(B) LIMITATION.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

''(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

''(12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—

''(A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

''(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).

''(ii) CONDITIONS AND TERMS OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

''(iii) INTERAGENCY DISPUTES.—Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

''(iv) COORDINATION OF SERVICES PROCEDURES.—Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).

''(B) OBLIGATION OF PUBLIC AGENCY.—

''(i) IN GENERAL.—If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in sections 602(1) relating to assistive technology devices, 602(2) relating to assistive technology services, 602(22) relating to related services, 602(29) relating to supplementary aids and services, and 602(30) relating to transition services) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

''(ii) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the child. Such local educational agency or State agency may then claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).

''(C) SPECIAL RULE.—The requirements of subparagraph (A) may be met through—

''(i) State statute or regulation;

''(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

''(iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer.

''(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

''(14) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State has in effect, consistent with the purposes of this Act and with section 635(a)(8), a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel that meets the requirements for a State improvement plan relating to personnel development in subsections (b)(2)(B) and (c)(3)(D) of section 653.

''(15) PERSONNEL STANDARDS.—

''(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained.

''(B) STANDARDS DESCRIBED.—Such standards shall—

''(i) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;

''(ii) to the extent the standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is taking steps to require retraining or hiring of personnel that meet appropriate professional requirements in the State; and

''(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

''(C) POLICY.—In implementing this paragraph, a State may adopt a policy that includes a requirement that local educational agencies in the State make an ongoing good-faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subparagraph (B)(i), consistent with State law, and the steps described in subparagraph (B)(ii) within three years.

''(16) PERFORMANCE GOALS AND INDICATORS.—The State—

''(A) has established goals for the performance of children with disabilities in the State that—

''(i) will promote the purposes of this Act, as stated in section 601(d); and

''(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;

''(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

''(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and

''(D) based on its assessment of that progress, will revise its State improvement plan under subpart 1 of part D as may be needed to improve its performance, if the State receives assistance under that subpart.

''(17) PARTICIPATION IN ASSESSMENTS.—

''(A) IN GENERAL.—Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local educational agency—

''(i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and

''(ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments.

''(B) REPORTS.—The State educational agency makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

''(i) The number of children with disabilities participating in regular assessments.

''(ii) The number of those children participating in alternate assessments.

''(iii)(I) The performance of those children on regular assessments (beginning not later than July 1, 1998) and on alternate assessments (not later than July 1, 2000), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.

''(II) Data relating to the performance of children described under subclause (I) shall be disaggregated—

''(aa) for assessments conducted after July 1, 1998; and

''(bb) for assessments conducted before July 1, 1998, if the State is required to disaggregate such data prior to July 1, 1998.

''(18) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

''(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

''(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

''(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

''(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

''(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

''(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

''(ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this part.

''(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

''(E) REGULATIONS.—

''(i) The Secretary shall, by regulation, establish procedures (including objective criteria and consideration of the results of compliance reviews of the State conducted by the Secretary) for determining whether to grant a waiver under subparagraph (C)(ii).

''(ii) The Secretary shall publish proposed regulations under clause (i) not later than 6 months after the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1997, and shall issue final regulations under clause (i) not later than 1 year after such date of enactment.

''(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

''(21) STATE ADVISORY PANEL.—

''(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

''(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

''(i) parents of children with disabilities;

''(ii) individuals with disabilities;

''(iii) teachers;

''(iv) representatives of institutions of higher education that prepare special education and related services personnel;

''(v) State and local education officials;

''(vi) administrators of programs for children with disabilities;

''(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

''(viii) representatives of private schools and public charter schools;

''(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

''(x) representatives from the State juvenile and adult corrections agencies.

''(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.

''(D) DUTIES.—The advisory panel shall—

''(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

''(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

''(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

''(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

''(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

''(22) SUSPENSION AND EXPULSION RATES.—

''(A) IN GENERAL.—The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

''(i) among local educational agencies in the State; or

''(ii) compared to such rates for nondisabled children within such agencies.

''(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.

''(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

''(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

''(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).

''(c) EXCEPTION FOR PRIOR STATE PLANS.—

''(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

''(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

''(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.

''(d) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

''(2) NOTICE AND HEARING.—The Secretary shall not make a final determination that a State is not eligible to receive a grant under this part until after providing the State—

''(A) with reasonable notice; and

''(B) with an opportunity for a hearing.

''(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.

''(f) BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS.—

''(1) IN GENERAL.—If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(10)(A), the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection.

''(2) PAYMENTS.—

''(A) DETERMINATION OF AMOUNTS.—If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—

''(i) the total amount received by the State under this part for such fiscal year; by

''(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 618.

''(B) WITHHOLDING OF CERTAIN AMOUNTS.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of services described in subparagraph (A).

''(C) PERIOD OF PAYMENTS.—The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A).

''(3) NOTICE AND HEARING.—

''(A) IN GENERAL.—The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

''(B) REVIEW OF ACTION.—If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28, United States Code.

''(C) REVIEW OF FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(D) JURISDICTION OF COURT OF APPEALS; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

''(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency demonstrates to the satisfaction of the State educational agency that it meets each of the following conditions:

''(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

''(2) USE OF AMOUNTS.—

''(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

''(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

''(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

''(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

''(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

''(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

''(ii) a decrease in the enrollment of children with disabilities;

''(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

''(I) has left the jurisdiction of the agency;

''(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

''(III) no longer needs such program of special education; or

''(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

''(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—

''(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.

''(ii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is not meeting the requirements of this part, the State educational agency may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, only if it is authorized to do so by the State constitution or a State statute.

''(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

''(i) the number of children with disabilities participating in the schoolwide program; multiplied by

''(ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by

''(II) the number of children with disabilities in the jurisdiction of that agency.

''(3) PERSONNEL DEVELOPMENT.—The local educational agency—

''(A) shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 653(c)(3)(D); and

''(B) to the extent such agency determines appropriate, shall contribute to and use the comprehensive system of personnel development of the State established under section 612(a)(14).

''(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

''(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

''(B) INTEGRATED AND COORDINATED SERVICES SYSTEM.—To develop and implement a fully integrated and coordinated services system in accordance with subsection (f).

''(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency—

''(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools; and

''(B) provides funds under this part to those schools in the same manner as it provides those funds to its other schools.

''(6) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (16) and (17) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

''(7) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

''(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

''(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

''(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

''(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

''(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

''(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

''(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

''(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

''(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

''(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

''(1) JOINT ESTABLISHMENT.—

''(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

''(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

''(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(g) if such agencies were eligible for such payments.

''(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

''(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

''(B) be jointly responsible for implementing programs that receive assistance under this part.

''(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

''(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

''(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

''(ii) be carried out only by that educational service agency.

''(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

''(f) COORDINATED SERVICES SYSTEM.—

''(1) IN GENERAL.—A local educational agency may not use more than 5 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families.

''(2) ACTIVITIES.—In implementing a coordinated services system under this subsection, a local educational agency may carry out activities that include—

''(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;

''(B) service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation), title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income);

''(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this Act; and

''(D) interagency personnel development for individuals working on coordinated services.

''(3) COORDINATION WITH CERTAIN PROJECTS UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—If a local educational agency is carrying out a coordinated services project under title XI of the Elementary and Secondary Education Act of 1965 and a coordinated services project under this part in the same schools, such agency shall use amounts under this subsection in accordance with the requirements of that title.

''(g) SCHOOL-BASED IMPROVEMENT PLAN.—

''(1) IN GENERAL.—Each local educational agency may, in accordance with paragraph (2), use funds made available under this part to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in section 651(b) and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) in that public school.

''(2) AUTHORITY.—

''(A) IN GENERAL.—A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school-based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years.

''(B) RESPONSIBILITY OF LOCAL EDUCATIONAL AGENCY.—If a State educational agency grants the authority described in subparagraph (A), a local educational agency that is granted such authority shall have the sole responsibility of oversight of all activities relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this subsection.

''(3) PLAN REQUIREMENTS.—A school-based improvement plan described in paragraph (1) shall—

''(A) be designed to be consistent with the purposes described in section 651(b) and to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4), who attend the school for which the plan is designed and implemented;

''(B) be designed, evaluated, and, as appropriate, implemented by a school-based standing panel established in accordance with paragraph (4)(B);

''(C) include goals and measurable indicators to assess the progress of the public school in meeting such goals; and

''(D) ensure that all children with disabilities receive the services described in the individualized education programs of such children.

''(4) RESPONSIBILITIES OF THE LOCAL EDUCATIONAL AGENCY.—A local educational agency that is granted authority under paragraph (2) to permit a public school to design, implement, and evaluate a school-based improvement plan shall—

''(A) select each school under the jurisdiction of such agency that is eligible to design, implement, and evaluate such a plan;

''(B) require each school selected under subparagraph (A), in accordance with criteria established by such local educational agency under subparagraph (C), to establish a school-based standing panel to carry out the duties described in paragraph (3)(B);

''(C) establish—

''(i) criteria that shall be used by such local educational agency in the selection of an eligible school under subparagraph (A);

''(ii) criteria that shall be used by a public school selected under subparagraph (A) in the establishment of a school-based standing panel to carry out the duties described in paragraph (3)(B) and that shall ensure that the membership of such panel reflects the diversity of the community in which the public school is located and includes, at a minimum—

''(I) parents of children with disabilities who attend such public school, including parents of children with disabilities from unserved and underserved populations, as appropriate;

''(II) special education and general education teachers of such public school;

''(III) special education and general education administrators, or the designee of such administrators, of such public school; and

''(IV) related services providers who are responsible for providing services to the children with disabilities who attend such public school; and

''(iii) criteria that shall be used by such local educational agency with respect to the distribution of funds under this part to carry out this subsection;

''(D) disseminate the criteria established under subparagraph (C) to local school district personnel and local parent organizations within the jurisdiction of such local educational agency;

''(E) require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at such time, in such manner, and accompanied by such information as such local educational agency shall reasonably require; and

''(F) establish procedures for approval by such local educational agency of a school-

based improvement plan designed under this subsection.

''(5) LIMITATION.—A school-based improvement plan described in paragraph (1) may be submitted to a local educational agency for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of such plan is reached by the school-based standing panel that designed such plan.

''(6) ADDITIONAL REQUIREMENTS.—

''(A) PARENTAL INVOLVEMENT.—In carrying out the requirements of this subsection, a local educational agency shall ensure that the parents of children with disabilities are involved in the design, evaluation, and, where appropriate, implementation of school-based improvement plans in accordance with this subsection.

''(B) PLAN APPROVAL.—A local educational agency may approve a school-based improvement plan of a public school within the jurisdiction of such agency for a period of 3 years, if—

''(i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and

''(ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that designed such plan agree in writing to such plan.

''(7) EXTENSION OF PLAN.—If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period.

''(h) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

''(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be—

''(A) has not provided the information needed to establish the eligibility of such agency under this section;

''(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

''(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

''(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

''(2) MANNER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this part.

''(i) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(g) shall demonstrate to the satisfaction of the State educational agency that—

''(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

''(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

''(j) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

''SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

''(a) EVALUATIONS AND REEVALUATIONS.—

''(1) INITIAL EVALUATIONS.—

''(A) IN GENERAL.—A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.

''(B) PROCEDURES.—Such initial evaluation shall consist of procedures—

''(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and

''(ii) to determine the educational needs of such child.

''(C) PARENTAL CONSENT.—

''(i) IN GENERAL.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

''(ii) REFUSAL.—If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the extent inconsistent with State law relating to parental consent.

''(2) REEVALUATIONS.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted—

''(A) if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years; and

''(B) in accordance with subsections (b) and (c).

''(b) EVALUATION PROCEDURES.—

''(1) NOTICE.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

''(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

''(A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;

''(B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

''(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

''(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

''(A) tests and other evaluation materials used to assess a child under this section—

''(i) are selected and administered so as not to be discriminatory on a racial or cultural basis; and

''(ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

''(B) any standardized tests that are given to the child—

''(i) have been validated for the specific purpose for which they are used;

''(ii) are administered by trained and knowledgeable personnel; and

''(iii) are administered in accordance with any instructions provided by the producer of such tests;

''(C) the child is assessed in all areas of suspected disability; and

''(D) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

''(4) DETERMINATION OF ELIGIBILITY.—Upon completion of administration of tests and other evaluation materials—

''(A) the determination of whether the child is a child with a disability as defined in section 602(3) shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

''(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

''(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency.

''(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

''(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

''(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observation; and

''(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

''(i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability;

''(ii) the present levels of performance and educational needs of the child;

''(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

''(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

''(2) SOURCE OF DATA.—The local educational agency shall administer such tests and other evaluation materials as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

''(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(C), prior to conducting any reevaluation of a child with a disability, except that such informed parent consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

''(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, the local educational agency—

''(A) shall notify the child's parents of—

''(i) that determination and the reasons for it; and

''(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability; and

''(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

''(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—A local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

''(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

''(1) DEFINITIONS.—As used in this title:

''(A) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

''(i) a statement of the child's present levels of educational performance, including—

''(I) how the child's disability affects the child's involvement and progress in the general curriculum; or

''(II) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

''(ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to—

''(I) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and

''(II) meeting each of the child's other educational needs that result from the child's disability;

''(iii) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

''(I) to advance appropriately toward attaining the annual goals;

''(II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in extracurricular and other nonacademic activities; and

''(III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

''(iv) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);

''(v)(I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and

''(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

''(aa) why that assessment is not appropriate for the child; and

''(bb) how the child will be assessed;

''(vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;

''(vii)(I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

''(II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

''(III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m); and

''(viii) a statement of—

''(I) how the child's progress toward the annual goals described in clause (ii) will be measured; and

''(II) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of—

''(aa) their child's progress toward the annual goals described in clause (ii); and

''(bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

''(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

''(i) the parents of a child with a disability;

''(ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

''(iii) at least one special education teacher, or where appropriate, at least one special education provider of such child;

''(iv) a representative of the local educational agency who—

''(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

''(II) is knowledgeable about the general curriculum; and

''(III) is knowledgeable about the availability of resources of the local educational agency;

''(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

''(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

''(vii) whenever appropriate, the child with a disability.

''(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

''(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

''(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school year), an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is—

''(i) consistent with State policy; and

''(ii) agreed to by the agency and the child's parents.

''(3) DEVELOPMENT OF IEP.—

''(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

''(i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and

''(ii) the results of the initial evaluation or most recent evaluation of the child.

''(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

''(i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

''(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

''(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

''(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

''(v) consider whether the child requires assistive technology devices and services.

''(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).

''(4) REVIEW AND REVISION OF IEP.—

''(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

''(i) reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and

''(ii) revises the IEP as appropriate to address—

''(I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;

''(II) the results of any reevaluation conducted under this section;

''(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

''(IV) the child's anticipated needs; or

''(V) other matters.

''(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.

''(5) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

''(6) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

''(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

''(i) The requirements contained in section 612(a)(17) and paragraph (1)(A)(v) of this subsection (relating to participation of children with disabilities in general assessments).

''(ii) The requirements of subclauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

''(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

''(e) CONSTRUCTION.—Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

''(f) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

''SEC. 615. PROCEDURAL SAFEGUARDS.

''(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.

''(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

''(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

''(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

''(3) written prior notice to the parents of the child whenever such agency—

''(A) proposes to initiate or change; or

''(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

''(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

''(5) an opportunity for mediation in accordance with subsection (e);

''(6) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child;

''(7) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

''(A) to the State educational agency or local educational agency, as the case may be, in the complaint filed under paragraph (6); and

''(B) that shall include—

''(i) the name of the child, the address of the residence of the child, and the name of the school the child is attending;

''(ii) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

''(iii) a proposed resolution of the problem to the extent known and available to the parents at the time; and

''(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).

''(c) CONTENT OF PRIOR WRITTEN NOTICE.—The notice required by subsection (b)(3) shall include—

''(1) a description of the action proposed or refused by the agency;

''(2) an explanation of why the agency proposes or refuses to take the action;

''(3) a description of any other options that the agency considered and the reasons why those options were rejected;

''(4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

''(5) a description of any other factors that are relevant to the agency's proposal or refusal;

''(6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

''(7) sources for parents to contact to obtain assistance in understanding the provisions of this part.

''(d) PROCEDURAL SAFEGUARDS NOTICE.—

''(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

''(A) upon initial referral for evaluation;

''(B) upon each notification of an individualized education program meeting and upon reevaluation of the child; and

''(C) upon registration of a complaint under subsection (b)(6).

''(2) CONTENTS.—The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

''(A) independent educational evaluation;

''(B) prior written notice;

''(C) parental consent;

''(D) access to educational records;

''(E) opportunity to present complaints;

''(F) the child's placement during pendency of due process proceedings;

''(G) procedures for students who are subject to placement in an interim alternative educational setting;

''(H) requirements for unilateral placement by parents of children in private schools at public expense;

''(I) mediation;

''(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

''(K) State-level appeals (if applicable in that State);

''(L) civil actions; and

''(M) attorneys' fees.

''(e) MEDIATION.—

''(1) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through a mediation process which, at a minimum, shall be available whenever a hearing is requested under subsection (f) or (k).

''(2) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(A) The procedures shall ensure that the mediation process—

''(i) is voluntary on the part of the parties;

''(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

''(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(B) A local educational agency or a State agency may establish procedures to require parents who choose not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

''(i) a parent training and information center or community parent resource center in the State established under section 682 or 683; or

''(ii) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

''(C) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

''(D) The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

''(E) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

''(F) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

''(G) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

''(f) IMPARTIAL DUE PROCESS HEARING.—

''(1) IN GENERAL.—Whenever a complaint has been received under subsection (b)(6) or (k) of this section, the parents involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

''(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

''(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

''(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

''(3) LIMITATION ON CONDUCT OF HEARING.—A hearing conducted pursuant to paragraph (1) may not be conducted by an employee of the State educational agency or the local educational agency involved in the education or care of the child.

''(g) APPEAL.—If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.

''(h) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

''(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

''(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

''(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

''(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) (relating to the confidentiality of data, information, and records) and shall also be transmitted to the advisory panel established pursuant to section 612(a)(21)).

''(i) ADMINISTRATIVE PROCEDURES.—

''(1) IN GENERAL.—

''(A) DECISION MADE IN HEARING.—A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2) of this subsection.

''(B) DECISION MADE AT APPEAL.—A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2) of this subsection.

''(2) RIGHT TO BRING CIVIL ACTION.—

''(A) IN GENERAL.—Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

''(B) ADDITIONAL REQUIREMENTS.—In any action brought under this paragraph, the court—

''(i) shall receive the records of the administrative proceedings;

''(ii) shall hear additional evidence at the request of a party; and

''(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

''(3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.—

''(A) IN GENERAL.—The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

''(B) AWARD OF ATTORNEYS' FEES.—In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party.

''(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

''(D) PROHIBITION OF ATTORNEYS' FEES AND RELATED COSTS FOR CERTAIN SERVICES.—

''(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—

''(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

''(II) the offer is not accepted within 10 days; and

''(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

''(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e) that is conducted prior to the filing of a complaint under subsection (b)(6) or (k) of this section.

''(E) EXCEPTION TO PROHIBITION ON ATTORNEYS' FEES AND RELATED COSTS.—Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

''(F) REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—Except as provided in subparagraph (G), whenever the court finds that—

''(i) the parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

''(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

''(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

''(iv) the attorney representing the parent did not provide to the school district the appropriate information in the due process complaint in accordance with subsection (b)(7);

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.

''(G) EXCEPTION TO REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

''(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (k)(7), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

''(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

''(1) AUTHORITY OF SCHOOL PERSONNEL.—

''(A) School personnel under this section may order a change in the placement of a child with a disability—

''(i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and

''(ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if—

''(I) the child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or

''(II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency.

''(B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)—

''(i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or

''(ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.

''(2) AUTHORITY OF HEARING OFFICER.—A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer—

''(A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others;

''(B) considers the appropriateness of the child's current placement;

''(C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

''(D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B).

''(3) DETERMINATION OF SETTING.—

''(A) IN GENERAL.—The alternative educational setting described in paragraph (1)(A)(ii) shall be determined by the IEP Team.

''(B) ADDITIONAL REQUIREMENTS.—Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall—

''(i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

''(ii) include services and modifications designed to address the behavior described in paragraph (1) or paragraph (2) so that it does not recur.

''(4) MANIFESTATION DETERMINATION REVIEW.—

''(A) IN GENERAL.—If a disciplinary action is contemplated as described in paragraph (1) or paragraph (2) for a behavior of a child with a disability described in either of those paragraphs, or if a disciplinary action involving a change of placement for more than 10 days is contemplated for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the local educational agency that applies to all children—

''(i) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and

''(ii) immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

''(B) INDIVIDUALS TO CARRY OUT REVIEW.—A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel.

''(C) CONDUCT OF REVIEW.—In carrying out a review described in subparagraph (A), the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team—

''(i) first considers, in terms of the behavior subject to disciplinary action, all relevant information, including—

''(I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the child;

''(II) observations of the child; and

''(III) the child's IEP and placement; and

''(ii) then determines that—

''(I) in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;

''(II) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

''(III) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

''(5) DETERMINATION THAT BEHAVIOR WAS NOT MANIFESTATION OF DISABILITY.—

''(A) IN GENERAL.—If the result of the review described in paragraph (4) is a determination, consistent with paragraph (4)(C), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in section 612(a)(1).

''(B) ADDITIONAL REQUIREMENT.—If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

''(6) PARENT APPEAL.—

''(A) IN GENERAL.—

''(i) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing.

''(ii) The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by a parent.

''(B) REVIEW OF DECISION.—

''(i) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability consistent with the requirements of paragraph (4)(C).

''(ii) In reviewing a decision under paragraph (1)(A)(ii) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards set out in paragraph (2).

''(7) PLACEMENT DURING APPEALS.—

''(A) IN GENERAL.—When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(A)(ii) or paragraph (2) to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(A)(ii) or paragraph (2), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

''(B) CURRENT PLACEMENT.—If a child is placed in an interim alternative educational setting pursuant to paragraph (1)(A)(ii) or paragraph (2) and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in subparagraph (C).

''(C) EXPEDITED HEARING.—

''(i) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the local educational agency may request an expedited hearing.

''(ii) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards set out in paragraph (2).

''(8) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

''(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in paragraph (1), may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

''(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if—

''(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

''(ii) the behavior or performance of the child demonstrates the need for such services;

''(iii) the parent of the child has requested an evaluation of the child pursuant to section 614; or

''(iv) the teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

''(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

''(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

''(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

''(9) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

''(A) Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

''(B) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

''(10) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

''(A) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under schedules I, II, III,

IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

''(B) ILLEGAL DRUG.—The term 'illegal drug'—

''(i) means a controlled substance; but

''(ii) does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

''(C) SUBSTANTIAL EVIDENCE.—The term 'substantial evidence' means beyond a preponderance of the evidence.

''(D) WEAPON.—The term 'weapon' has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

''(l) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.

''(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

''(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

''(A) the public agency shall provide any notice required by this section to both the individual and the parents;

''(B) all other rights accorded to parents under this part transfer to the child;

''(C) the agency shall notify the individual and the parents of the transfer of rights; and

''(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

''(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

''SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.

''(a) WITHHOLDING OF PAYMENTS.—

''(1) IN GENERAL.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or State agency affected by any failure described in subparagraph (B)), finds—

''(A) that there has been a failure by the State to comply substantially with any provision of this part; or

''(B) that there is a failure to comply with any condition of a local educational agency's or State agency's eligibility under this part, including the terms of any agreement to achieve compliance with this part within the timelines specified in the agreement;

the Secretary shall, after notifying the State educational agency, withhold, in whole or in part, any further payments to the State under this part, or refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

''(2) NATURE OF WITHHOLDING.—If the Secretary withholds further payments under paragraph (1), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in subparagraph (A) or (B) of paragraph (1), payments to the State under this part shall be withheld in whole or in part, or payments by the State educational agency under this part shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (1) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

''(b) JUDICIAL REVIEW.—

''(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

''(2) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(3) STANDARD OF REVIEW.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(c) DIVIDED STATE AGENCY RESPONSIBILITY.—For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except—

''(1) any reduction or withholding of payments to the State is proportionate to the total funds allotted under section 611 to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and

''(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this part.

''SEC. 617. ADMINISTRATION.

''(a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—

''(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, the State in matters relating to—

''(A) the education of children with disabilities; and

''(B) carrying out this part; and

''(2) provide short-term training programs and institutes.

''(b) RULES AND REGULATIONS.—In carrying out the provisions of this part, the Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this Act.

''(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with the provisions of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

''(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618, 661, and 673 (or their predecessor authorities through October 1, 1997) without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.

''SEC. 618. PROGRAM INFORMATION.

''(a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

''(1)(A) on—

''(i) the number of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

''(ii) the number of children with disabilities, by race and ethnicity, who are receiving early intervention services;

''(iii) the number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

''(iv) the number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

''(v) the number of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

''(vi) the number of children with disabilities, by race and ethnicity, who, from birth through age two, stopped receiving early intervention services because of program completion or for other reasons; and

''(vii)(I) the number of children with disabilities, by race, ethnicity, and disability category, who under subparagraphs (A)(ii) and (B) of section 615(k)(1), are removed to an interim alternative educational setting;

''(II) the acts or items precipitating those removals; and

''(III) the number of children with disabilities who are subject to long-term suspensions or expulsions; and

''(B) on the number of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as described in section 632), and who are receiving early intervention services under part C; and

''(2) on any other information that may be required by the Secretary.

''(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

''(c) DISPROPORTIONALITY.—

''(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to—

''(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3); and

''(B) the placement in particular educational settings of such children.

''(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.

''SEC. 619. PRESCHOOL GRANTS.

''(a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part—

''(1) to children with disabilities aged 3 to 5, inclusive; and

''(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

''(b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State—

''(1) is eligible under section 612 to receive a grant under this part; and

''(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

''(c) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—After reserving funds for studies and evaluations under section 674(e), the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or (3), as the case may be.

''(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A)(i) Except as provided in subparagraph (B), the Secretary shall—

''(I) allocate to each State the amount it received for fiscal year 1997;

''(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

''(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

''(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

''(ii) No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount it received for fiscal year 1997; and

''(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;

''(II) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

''(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount it received for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

''(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

''(i) the amount it received for fiscal year 1997; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

''(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

''(4) OUTLYING AREAS.—The Secretary shall increase the fiscal year 1998 allotment of each outlying area under section 611 by at least the amount that that area received under this section for fiscal year 1997.

''(d) RESERVATION FOR STATE ACTIVITIES.—

''(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

''(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

''(e) STATE ADMINISTRATION.—

''(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal year.

''(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)—

''(1) for support services (including establishing and implementing the mediation process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

''(2) for direct services for children eligible for services under this section;

''(3) to develop a State improvement plan under subpart 1 of part D;

''(4) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State improvement plan under subpart 1 of part D if the State receives funds under that subpart; or

''(5) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

''(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

''(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

''(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

''(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

''(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged three through five residing in the area served by that agency

with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged three through five residing in the areas they serve.

''(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

''(i) DEFINITION.—For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 1998 and such sums as may be necessary for each subsequent fiscal year.

''PART C—INFANTS AND TODDLERS WITH DISABILITIES

''SEC. 631. FINDINGS AND POLICY.

''(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

''(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

''(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

''(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

''(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

''(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

''(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

''(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

''(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

''(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

''(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

''SEC. 632. DEFINITIONS.

''As used in this part:

''(1) AT-RISK INFANT OR TODDLER.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

''(2) COUNCIL.—The term 'council' means a State interagency coordinating council established under section 641.

''(3) DEVELOPMENTAL DELAY.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

''(4) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means developmental services that—

''(A) are provided under public supervision;

''(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

''(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas—

''(i) physical development;

''(ii) cognitive development;

''(iii) communication development;

''(iv) social or emotional development; or

''(v) adaptive development;

''(D) meet the standards of the State in which they are provided, including the requirements of this part;

''(E) include—

''(i) family training, counseling, and home visits;

''(ii) special instruction;

''(iii) speech-language pathology and audiology services;

''(iv) occupational therapy;

''(v) physical therapy;

''(vi) psychological services;

''(vii) service coordination services;

''(viii) medical services only for diagnostic or evaluation purposes;

''(ix) early identification, screening, and assessment services;

''(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

''(xi) social work services;

''(xii) vision services;

''(xiii) assistive technology devices and assistive technology services; and

''(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

''(F) are provided by qualified personnel, including—

''(i) special educators;

''(ii) speech-language pathologists and audiologists;

''(iii) occupational therapists;

''(iv) physical therapists;

''(v) psychologists;

''(vi) social workers;

''(vii) nurses;

''(viii) nutritionists;

''(ix) family therapists;

''(x) orientation and mobility specialists; and

''(xi) pediatricians and other physicians;

''(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

''(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

''(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability'—

''(A) means an individual under 3 years of age who needs early intervention services because the individual—

''(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

''(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and

''(B) may also include, at a State's discretion, at-risk infants and toddlers.

''SEC. 633. GENERAL AUTHORITY.

''The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

''SEC. 634. ELIGIBILITY.

''In order to be eligible for a grant under section 633, a State shall demonstrate to the Secretary that the State—

''(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

''(2) has in effect a statewide system that meets the requirements of section 635.

''SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

''(a) IN GENERAL.—A statewide system described in section 633 shall include, at a minimum, the following components:

''(1) A definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part.

''(2) A State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

''(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

''(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

''(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

''(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

''(7) A central directory which includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

''(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 612(a)(14) and may include—

''(A) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

''(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part;

''(C) training personnel to work in rural and inner-city areas; and

''(D) training personnel to coordinate transition services for infants and toddlers served under this part from an early intervention program under this part to preschool or other appropriate services.

''(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

''(A) the establishment and maintenance of standards which are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services; and

''(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State;

except that nothing in this part, including this paragraph, prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this part.

''(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

''(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

''(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

''(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

''(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

''(E) the resolution of intra- and interagency disputes; and

''(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

''(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

''(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

''(13) Procedural safeguards with respect to programs under this part, as required by section 639.

''(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

''(15) A State interagency coordinating council that meets the requirements of section 641.

''(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

''(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

''(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

''(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law, within 3 years.

''SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

''(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

''(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

''(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

''(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e).

''(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

''(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

''(d) CONTENT OF PLAN.—-The individualized family service plan shall be in writing and contain—

''(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

''(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

''(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

''(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

''(5) a statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

''(6) the projected dates for initiation of services and the anticipated duration of the services;

''(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons; and

''(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

''(e) PARENTAL CONSENT.—-The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then the early intervention services to which consent is obtained shall be provided.

''SEC. 637. STATE APPLICATION AND ASSURANCES.

''(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

''(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

''(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

''(3) information demonstrating eligibility of the State under section 634, including—

''(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and

''(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

''(4) if the State provides services to at-risk infants and toddlers through the system, a description of such services;

''(5) a description of the uses for which funds will be expended in accordance with this part;

''(6) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

''(7) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

''(8) a description of the policies and procedures to be used—

''(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how--

''(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

''(ii) the lead agency designated or established under section 635(a)(10) will—

''(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

''(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

''(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

''(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

''(C) to establish a transition plan; and

''(9) such other information and assurances as the Secretary may reasonably require.

''(b) ASSURANCES.—The application described in subsection (a)—

''(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

''(2) shall contain an assurance that the State will comply with the requirements of section 640;

''(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

''(4) shall provide for—

''(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

''(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

''(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

''(A) will not be commingled with State funds; and

''(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

''(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

''(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

''(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

''(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

''(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part H (as in effect before July 1, 1998), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

''(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

''(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

''(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

''(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

''(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

''SEC. 638. USES OF FUNDS.

''In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

''(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

''(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

''(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

''(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

''(A) identifying and evaluating at-risk infants and toddlers;

''(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

''(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

''SEC. 639. PROCEDURAL SAFEGUARDS.

''(a) MINIMUM PROCEDURES.—-The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following:

''(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

''(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

''(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

''(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

''(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

''(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

''(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

''(8) The right of parents to use mediation in accordance with section 615(e), except that—

''(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

''(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and

''(C) any reference in the section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

''(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

''SEC. 640. PAYOR OF LAST RESORT.

''(a) NONSUBSTITUTION.—Funds provided under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to

prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

''(b) REDUCTION OF OTHER BENEFITS—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for infants or toddlers with disabilities) within the State.

''SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

''(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

''(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The council shall be composed as follows:

''(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

''(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

''(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

''(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

''(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

''(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

''(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

''(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

''(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

''(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

''(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

''(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

''(e) FUNCTIONS OF COUNCIL.—

''(1) DUTIES.—The council shall—

''(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

''(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

''(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

''(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

''(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

''(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

''SEC. 642. FEDERAL ADMINISTRATION.

''Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

''(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

''(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

''(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

''SEC. 643. ALLOCATION OF FUNDS.

''(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

''(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

''(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

''(b) PAYMENTS TO INDIANS.—

''(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

''(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

''(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

''(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child-find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(i)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

''(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

''(c) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

''(2) MINIMUM ALLOTMENTS.—Except as provided in paragraphs (3) and (4), no State shall receive an amount under this section for any fiscal year that is less than the greatest of—

''(A) one-half of one percent of the remaining amount described in paragraph (1); or

''(B) $500,000.

''(3) SPECIAL RULE FOR 1998 AND 1999.—

''(A) IN GENERAL.—Except as provided in paragraph (4), no State may receive an amount under this section for either fiscal year 1998 or 1999 that is less than the sum of the amounts such State received for fiscal year 1994 under—

''(i) part H (as in effect for such fiscal year); and

''(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) for children with disabilities under 3 years of age.

''(B) EXCEPTION.—If, for fiscal year 1998 or 1999, the number of infants and toddlers in a State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for the State shall be reduced by the same percentage by which the number of such infants and toddlers so declined.

''(4) RATABLE REDUCTION.—

''(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

''(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

''(5) DEFINITIONS.—For the purpose of this subsection—

''(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and

''(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"SEC. 644. FEDERAL INTERAGENCY COORDINATING COUNCIL.

''(a) ESTABLISHMENT AND PURPOSE.—

''(1) IN GENERAL.—The Secretary shall establish a Federal Interagency Coordinating Council in order to—

''(A) minimize duplication of programs and activities across Federal, State, and local agencies, relating to—

''(i) early intervention services for infants and toddlers with disabilities (including at-risk infants and toddlers) and their families; and

''(ii) preschool or other appropriate services for children with disabilities;

''(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

''(C) coordinate the provision of Federal technical assistance and support activities to States;

''(D) identify gaps in Federal agency programs and services; and

''(E) identify barriers to Federal interagency cooperation.

''(2) APPOINTMENTS.—The council established under paragraph (1) (hereafter in this section referred to as the ''Council'') and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that the member represents.

''(b) COMPOSITION.—The Council shall be composed of—

''(1) a representative of the Office of Special Education Programs;

''(2) a representative of the National Institute on Disability and Rehabilitation Research and a representative of the Office of Educational Research and Improvement;

''(3) a representative of the Maternal and Child Health Services Block Grant Program;

''(4) a representative of programs administered under the Developmental Disabilities Assistance and Bill of Rights Act;

''(5) a representative of the Health Care Financing Administration;

''(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

''(7) a representative of the Social Security Administration;

''(8) a representative of the special supplemental nutrition program for women, infants, and children of the Department of Agriculture;

''(9) a representative of the National Institute of Mental Health;

''(10) a representative of the National Institute of Child Health and Human Development;

''(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

''(12) a representative of the Indian Health Service;

''(13) a representative of the Surgeon General;

''(14) a representative of the Department of Defense;

''(15) a representative of the Children's Bureau, and a representative of the Head Start Bureau, of the Administration for Children and Families;

''(16) a representative of the Substance Abuse and Mental Health Services Administration;

''(17) a representative of the Pediatric AIDS Health Care Demonstration Program in the Public Health Service;

''(18) parents of children with disabilities age 12 or under (who shall constitute at least 20 percent of the members of the Council), of whom at least one must have a child with a disability under the age of 6;

''(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of whom must be a representative of a State educational agency and the other a representative of a non-educational agency;

''(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

''(21) other persons appointed by the Secretary.

''(c) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

''(d) FUNCTIONS OF THE COUNCIL.—The Council shall—

''(1) advise and assist the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, and the Commissioner of Social Security in the performance of their responsibilities related to serving children from birth through age 5 who are eligible for services under this part or under part B;

''(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

''(3) identify strategies to address issues described in paragraph (2);

''(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

''(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

''(6) facilitate activities in support of States' interagency coordination efforts.

''(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

''(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the Council.

"SEC. 645. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $400,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002.

"PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

"Subpart 1—State Program Improvement Grants for Children with Disabilities

"SEC. 651. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds the following:

''(1) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets.

''(2) In order for States to address such demands and to facilitate lasting systemic change that is of benefit to all students, including children with disabilities, States must involve local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve educational results for children with disabilities.

''(3) Targeted Federal financial resources are needed to assist States, working in partnership with others, to identify and make needed changes to address the needs of children with disabilities into the next century.

''(4) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs.

''(5) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systemic-change activities can now be based.

''(6) Such research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must—

''(A) maintain high academic standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that students who are children with disabilities have maximum opportunities to achieve those standards and goals;

''(B) create a system that fully addresses the needs of all students, including children with disabilities, by addressing the needs of children with disabilities in carrying out educational reform activities;

''(C) clearly define, in measurable terms, the school and post-school results that children with disabilities are expected to achieve;

''(D) promote service integration, and the coordination of State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who require significant levels of support to maximize their participation and learning in school and the community;

''(E) ensure that children with disabilities are provided assistance and support in making transitions as described in section 674(b)(3)(C);

''(F) promote comprehensive programs of professional development to ensure that the persons responsible for the education or a transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children;

''(G) disseminate to teachers and other personnel serving children with disabilities research-based knowledge about successful teaching practices and models and provide technical assistance to local educational agencies and schools on how to improve results for children with disabilities;

''(H) create school-based disciplinary strategies that will be used to reduce or eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities;

''(I) establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities; and

''(J) involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating systemic-change activities and educational reforms.

''(b) PURPOSE.—The purpose of this subpart is to assist State educational agencies, and their partners referred to in section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

''SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS.

''(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a grant period of not less than 1 year and not more than 5 years.

''(b) PARTNERS.—

''(1) REQUIRED PARTNERS.—

''(A) CONTRACTUAL PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities.

''(B) OTHER PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including—

''(i) the Governor;

''(ii) parents of children with disabilities;

''(iii) parents of nondisabled children;

''(iv) individuals with disabilities;

''(v) organizations representing individuals with disabilities and their parents, such as parent training and information centers;

''(vi) community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

''(vii) the lead State agency for part C;

''(viii) general and special education teachers, and early intervention personnel;

''(ix) the State advisory panel established under part C;

''(x) the State interagency coordinating council established under part C; and

''(xi) institutions of higher education within the State.

''(2) OPTIONAL PARTNERS.—A partnership under subparagraph (A) or (B) of paragraph (1) may also include—

''(A) individuals knowledgeable about vocational education;

''(B) the State agency for higher education;

''(C) the State vocational rehabilitation agency;

''(D) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and

''(E) other individuals.

''SEC. 653. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

''(2) STATE IMPROVEMENT PLAN.—The application shall include a State improvement plan that—

''(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 and the Rehabilitation Act of 1973, as appropriate; and

''(B) meets the requirements of this section.

''(b) DETERMINING CHILD AND PROGRAM NEEDS.—

''(1) IN GENERAL.—Each State improvement plan shall identify those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 612(a)(16).

''(2) REQUIRED ANALYSES.—To meet the requirement of paragraph (1), the State improvement plan shall include at least—

''(A) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State, including—

''(i) their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;

''(ii) their participation in postsecondary education and employment; and

''(iii) how their performance on the assessments and indicators described in clause (i) compares to that of non-disabled children;

''(B) an analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum—

''(i) the number of personnel providing special education and related services; and

''(ii) relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals described in clause (i) with temporary certification), and on the extent of certification or retraining necessary to eliminate such shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs;

''(C) an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and

''(D) an analysis of other information, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

''(c) IMPROVEMENT STRATEGIES.—Each State improvement plan shall—

''(1) describe a partnership agreement that—

''(A) specifies—

''(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

''(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

''(B) is in effect for the period of the grant;

''(2) describe how grant funds will be used in undertaking the systemic-change activities, and the amount and nature of funds from any other sources, including part B funds retained for use at the State level under sections 611(f) and 619(d), that will be committed to the systemic-change activities;

''(3) describe the strategies the State will use to address the needs identified under subsection (b), including—

''(A) how the State will change State policies and procedures to address systemic barriers to improving results for children with disabilities;

''(B) how the State will hold local educational agencies and schools accountable for educational progress of children with disabilities;

''(C) how the State will provide technical assistance to local educational agencies and schools to improve results for children with disabilities;

''(D) how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and

knowledge necessary to meet the needs of children with disabilities, including a description of how—

''(i) the State will prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria;

''(ii) the State will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

''(iii) the State will work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs;

''(iv) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation;

''(v) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

''(vi) the State will enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;

''(vii) the State will acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the State will, when appropriate, adopt promising practices, materials, and technology;

''(viii) the State will recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, and related services;

''(ix) the plan is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training; and

''(x) the State will provide for the joint training of parents and special education, related services, and general education personnel;

''(E) strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel;

''(F) how the State will disseminate results of the local capacity-building and improvement projects funded under section 611(f)(4);

''(G) how the State will address improving results for children with disabilities in the geographic areas of greatest need; and

''(H) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective; and

''(4) describe how the improvement strategies described in paragraph (3) will be coordinated with public and private sector resources.

''(d) COMPETITIVE AWARDS.—

''(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

''(2) PRIORITY.—The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews.

''(e) PEER REVIEW.—

''(1) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart.

''(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

''(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

''(f) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. The reports shall describe the progress of the State in meeting the performance goals established under section 612(a)(16), analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.

''SEC. 654. USE OF FUNDS.

''(a) IN GENERAL.—

''(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart may use the grant to carry out any activities that are described in the State's application and that are consistent with the purpose of this subpart.

''(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

''(A) shall, consistent with its partnership agreement under section 652(b), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State improvement plan under this subpart; and

''(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

''(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart—

''(1) shall use not less than 75 percent of the funds it receives under the grant for any fiscal year—

''(A) to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children; or

''(B) to work with other States on common certification criteria; or

''(2) shall use not less than 50 percent of such funds for such purposes, if the State demonstrates to the Secretary's satisfaction that it has the personnel described in paragraph (1)(A).

''(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

''SEC. 655. MINIMUM STATE GRANT AMOUNTS.

''(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is—

''(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

''(2) not less than $80,000, in the case of an outlying area.

''(b) INFLATION ADJUSTMENT.—Beginning with fiscal year 1999, the Secretary may increase the maximum amount described in subsection (a)(1) to account for inflation.

''(c) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering—

''(1) the amount of funds available for making the grants;

''(2) the relative population of the State or outlying area; and

''(3) the types of activities proposed by the State or outlying area.

''SEC. 656. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1998 through 2002.

''Subpart 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information

''SEC. 661. ADMINISTRATIVE PROVISIONS.

''(a) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted for State program improvement grants under subpart 1.

''(2) PARTICIPANTS IN PLAN DEVELOPMENT.—In developing the plan described in paragraph (1), the Secretary shall consult with—

''(A) individuals with disabilities;

''(B) parents of children with disabilities;

''(C) appropriate professionals; and

''(D) representatives of State and local educational agencies, private schools, institutions of higher education, other Federal agencies, the National Council on Disability, and national organizations with an interest in, and expertise in, providing services to children with disabilities and their families.

''(3) PUBLIC COMMENT.—The Secretary shall take public comment on the plan.

''(4) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

''(5) REPORTS TO CONGRESS.—The Secretary shall periodically report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 18 months after the date of the enactment of the Individuals with Disabilities Act Amendments of 1997.

''(b) ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

''(A) A State educational agency.

''(B) A local educational agency.

''(C) An institution of higher education.

''(D) Any other public agency.

''(E) A private nonprofit organization.

''(F) An outlying area.

''(G) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act).

''(H) A for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this subpart.

''(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1).

''(c) USE OF FUNDS BY SECRETARY.—Notwithstanding any other provision of law, and in addition to any authority granted the Secretary under chapter 1 or chapter 2, the Secretary may use up to 20 percent of the funds available under either chapter 1 or chapter 2 for any fiscal year to carry out any activity, or combination of activities, subject to such conditions as the Secretary determines are appropriate effectively to carry out the purposes of such chapters, that—

''(A) is consistent with the purposes of chapter 1, chapter 2, or both; and

''(B) involves—

''(i) research;

''(ii) personnel preparation;

''(iii) parent training and information;

''(iv) technical assistance and dissemination;

''(v) technology development, demonstration, and utilization; or

''(vi) media services.

''(d) SPECIAL POPULATIONS.—

''(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

''(2) OUTREACH AND TECHNICAL ASSISTANCE.—

''(A) REQUIREMENT.—Notwithstanding any other provision of this Act, the Secretary shall ensure that at least one percent of the total amount of funds appropriated to carry out this subpart is used for either or both of the following activities:

''(i) To provide outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

''(ii) To enable Historically Black Colleges and Universities, and the institutions described in clause (i), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities.

''(B) RESERVATION OF FUNDS.—The Secretary may reserve funds appropriated under this subpart to satisfy the requirement of subparagraph (A).

''(e) PRIORITIES.—

''(1) IN GENERAL.—Except as otherwise explicitly authorized in this subpart, the Secretary shall ensure that a grant, contract, or cooperative agreement under chapter 1 or 2 is awarded only—

''(A) for activities that are designed to benefit children with disabilities, their families, or the personnel employed to work with such children or their families; or

''(B) to benefit other individuals with disabilities that such chapter is intended to benefit.

''(2) PRIORITY FOR PARTICULAR ACTIVITIES.—Subject to paragraph (1), the Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rule making procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

''(A) projects that address one or more—

''(i) age ranges;

''(ii) disabilities;

''(iii) school grades;

''(iv) types of educational placements or early intervention environments;

''(v) types of services;

''(vi) content areas, such as reading; or

''(vii) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

''(B) projects that address the needs of children based on the severity of their disability;

''(C) projects that address the needs of—

''(i) low-achieving students;

''(ii) underserved populations;

''(iii) children from low-income families;

''(iv) children with limited English proficiency;

''(v) unserved and underserved areas;

''(vi) particular types of geographic areas; or

''(vii) children whose behavior interferes with their learning and socialization;

''(D) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;

''(E) projects that are carried out in particular areas of the country, to ensure broad geographic coverage; and

''(F) any activity that is expressly authorized in chapter 1 or 2.

''(f) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

''(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart—

''(A) involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the project; and

''(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

''(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

''(A) to share in the cost of the project;

''(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

''(C) to disseminate such findings and products; and

''(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

''(g) APPLICATION MANAGEMENT.—

''(1) STANDING PANEL.—

''(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart that, individually, request more than $75,000 per year in Federal financial assistance.

''(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

''(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out programs of personnel preparation;

''(ii) individuals who design and carry out programs of research targeted to the improvement of special education programs and services;

''(iii) individuals who have recognized experience and knowledge necessary to integrate and apply research findings to improve educational and transitional results for children with disabilities;

''(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

''(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

''(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

''(vii) individuals who are parents of children with disabilities who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

''(viii) individuals with disabilities.

''(C) TRAINING.—The Secretary shall provide training to the individuals who are selected as members of the standing panel under this paragraph.

''(D) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years, unless the Secretary determines that the individual's continued participation is necessary for the sound administration of this subpart.

''(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

''(A) COMPOSITION.—The Secretary shall ensure that each sub-panel selected from the standing panel that reviews applications under this subpart includes—

''(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and

''(ii) to the extent practicable, parents of children with disabilities, individuals with disabilities, and persons from diverse backgrounds.

''(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each sub-panel that reviews an application under this subpart shall be individuals who are not employees of the Federal Government.

''(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

''(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

''(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

''(C) MONITORING.—The Secretary may use funds available under this subpart to pay the expenses of Federal employees to conduct on-site monitoring of projects receiving $500,000 or more for any fiscal year under this subpart.

''(h) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

''(i) MINIMUM FUNDING REQUIRED.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

''(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

''(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

''(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

''(2) RATABLE REDUCTION.—If the total amount appropriated to carry out sections 672, 673, and 685 for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

''(j) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 619(b).

''Chapter 1—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities through Coordinated Research and Personnel Preparation

''SEC. 671. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds the following:

''(1) The Federal Government has an ongoing obligation to support programs, projects, and activities that contribute to positive results for children with disabilities, enabling them—

''(A) to meet their early intervention, educational, and transitional goals and, to the maximum extent possible, educational standards that have been established for all children; and

''(B) to acquire the skills that will empower them to lead productive and independent adult lives.

''(2)(A) As a result of more than 20 years of Federal support for research, demonstration projects, and personnel preparation, there is an important knowledge base for improving results for children with disabilities.

''(B) Such knowledge should be used by States and local educational agencies to design and implement state-of-the-art educational systems that consider the needs of, and include, children with disabilities, especially in environments in which they can learn along with their peers and achieve results measured by the same standards as the results of their peers.

''(3)(A) Continued Federal support is essential for the development and maintenance of a coordinated and high-quality program of research, demonstration projects, dissemination of information, and personnel preparation.

''(B) Such support—

''(i) enables State educational agencies and local educational agencies to improve their educational systems and results for children with disabilities;

''(ii) enables State and local agencies to improve early intervention services and results for infants and toddlers with disabilities and their families; and

''(iii) enhances the opportunities for general and special education personnel, related services personnel, parents, and paraprofessionals to participate in pre-service and in-service training, to collaborate, and to improve results for children with disabilities and their families.

''(4) The Federal Government plays a critical role in facilitating the availability of an adequate number of qualified personnel—

''(A) to serve effectively the over 5,000,000 children with disabilities;

''(B) to assume leadership positions in administrative and direct-service capacities related to teacher training and research concerning the provision of early intervention services, special education, and related services; and

''(C) to work with children with low-incidence disabilities and their families.

''(5) The Federal Government performs the role described in paragraph (4)—

''(A) by supporting models of personnel development that reflect successful practice, including strategies for recruiting, preparing, and retaining personnel;

''(B) by promoting the coordination and integration of—

''(i) personnel-development activities for teachers of children with disabilities; and

''(ii) other personnel-development activities supported under Federal law, including this chapter;

''(C) by supporting the development and dissemination of information about teaching standards; and

''(D) by promoting the coordination and integration of personnel-development activities through linkage with systemic-change activities within States and nationally.

''(b) PURPOSE.—The purpose of this chapter is to provide Federal funding for coordinated research, demonstration projects, outreach, and personnel-preparation activities that—

''(1) are described in sections 672 through 674;

''(2) are linked with, and promote, systemic change; and

''(3) improve early intervention, educational, and transitional results for children with disabilities.

''SEC. 672. RESEARCH AND INNOVATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to produce, and advance the use of, knowledge—

''(1) to improve—

''(A) services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities; and

''(B) educational results for children with disabilities;

''(2) to address the special needs of preschool-aged children and infants and toddlers with disabilities, including infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them;

''(3) to address the specific problems of over-identification and under-identification of children with disabilities;

''(4) to develop and implement effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

''(5) to improve secondary and postsecondary education and transitional services for children with disabilities; and

''(6) to address the range of special education, related services, and early intervention needs of children with disabilities who need significant levels of support to maximize their participation and learning in school and in the community.

''(b) NEW KNOWLEDGE PRODUCTION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that lead to the production of new knowledge.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Expanding understanding of the relationships between learning characteristics of children with disabilities and the diverse ethnic, cultural, linguistic, social, and economic backgrounds of children with disabilities and their families.

''(B) Developing or identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and developing or identifying positive academic and social learning opportunities, that—

''(i) enable children with disabilities to make effective transitions described in section 674(b)(3)(C) or transitions between educational settings; and

''(ii) improve educational and transitional results for children with disabilities at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of the children, as measured by assessments within the general education curriculum involved.

''(C) Advancing the design of assessment tools and procedures that will accurately and efficiently determine the special instructional, learning, and behavioral needs of children with disabilities, especially within the context of general education.

''(D) Studying and promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, evaluation and accountability of such reforms, and administrative procedures.

''(E) Advancing the design, development, and integration of technology, assistive technology devices, media, and materials, to improve early intervention, educational, and transitional services and results for children with disabilities.

''(F) Improving designs, processes, and results of personnel preparation for personnel who provide services to children with disabilities through the acquisition of information on, and implementation of, research-based practices.

''(G) Advancing knowledge about the coordination of education with health and social services.

''(H) Producing information on the long-term impact of early intervention and education on results for individuals with disabilities through large-scale longitudinal studies.

''(c) INTEGRATION OF RESEARCH AND PRACTICE; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that integrate research and practice, including activities that support State systemic-change and local capacity-building and improvement efforts.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Model demonstration projects to apply and test research findings in typical service settings to determine the usability, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media.

''(B) Demonstrating and applying research-based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

''(C) Promoting and demonstrating the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies.

''(D) Identifying and disseminating solutions that overcome systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to children with disabilities.

''(d) IMPROVING THE USE OF PROFESSIONAL KNOWLEDGE; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that improve the use of professional knowledge, including activities that support State systemic-change and

local capacity-building and improvement efforts.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Synthesizing useful research and other information relating to the provision of services to children with disabilities, including effective practices.

''(B) Analyzing professional knowledge bases to advance an understanding of the relationships, and the effectiveness of practices, relating to the provision of services to children with disabilities.

''(C) Ensuring that research and related products are in appropriate formats for distribution to teachers, parents, and individuals with disabilities.

''(D) Enabling professionals, parents of children with disabilities, and other persons, to learn about, and implement, the findings of research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities.

''(E) Conducting outreach, and disseminating information relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services, to personnel who provide services to children with disabilities.

''(e) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance—

''(1) among knowledge production, integration of research and practice, and use of professional knowledge; and

''(2) across all age ranges of children with disabilities.

''(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

''SEC. 673. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

''(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and

''(2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined, through research and experience, to be successful, that are needed to serve those children.

''(b) LOW-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing persons who—

''(i) have prior training in educational and other related service fields; and

''(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

''(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with disabilities.

''(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with disabilities through early intervention, educational, and transitional services.

''(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

''(E) Preparing personnel to be qualified educational interpreters, to assist children with disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

''(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

''(3) DEFINITION.—As used in this section, the term 'low-incidence disability' means—

''(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

''(B) a significant cognitive impairment; or

''(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

''(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

''(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

''(c) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing personnel at the advanced graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services for children with disabilities.

''(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

''(d) PROJECTS OF NATIONAL SIGNIFICANCE; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that are of national significance and have broad applicability.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Developing and demonstrating effective and efficient practices for preparing personnel to provide services to children with disabilities, including practices that address any needs identified in the State's improvement plan under part C;

''(B) Demonstrating the application of significant knowledge derived from research and other sources in the development of programs to prepare personnel to provide services to children with disabilities.

''(C) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel—

''(i) to acquire the collaboration skills necessary to work within teams to assist children with disabilities; and

''(ii) to achieve results that meet challenging standards, particularly within the general education curriculum.

''(D) Demonstrating models that reduce shortages of teachers, and personnel from other relevant disciplines, who serve children with disabilities, through reciprocity arrangements between States that are related to licensure and certification.

''(E) Developing, evaluating, and disseminating model teaching standards for persons working with children with disabilities.

''(F) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

''(G) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

''(H) Institutes that provide professional development that addresses the needs of children with disabilities to teachers or teams of teachers, and where appropriate, to school board members, administrators, principals, pupil-service personnel, and other staff from individual schools.

''(I) Projects to improve the ability of general education teachers, principals, and other administrators to meet the needs of children with disabilities.

''(J) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, qualified teachers, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

''(K) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

''(e) HIGH-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), to benefit children with high-incidence disabilities, such as children with specific learning disabilities, speech or language impairment, or mental retardation.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

''(A) Activities undertaken by institutions of higher education, local educational agencies, and other local entities—

''(i) to improve and reform their existing programs to prepare teachers and related services personnel—

''(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

''(II) to work collaboratively in regular classroom settings; and

''(ii) to incorporate best practices and research-based knowledge about preparing personnel so they will have the knowledge and skills to improve educational results for children with disabilities.

''(B) Activities incorporating innovative strategies to recruit and prepare teachers and other personnel to meet the needs of areas in which there are acute and persistent shortages of personnel.

''(C) Developing career opportunities for paraprofessionals to receive training as special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.

''(f) APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) IDENTIFIED STATE NEEDS.—

''(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), or (e) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

''(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies have engaged in a cooperative effort to plan the project to which the application pertains, and will cooperate in carrying out and monitoring the project.

''(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide letters from one or more States stating that the States—

''(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities or serving infants and toddlers with disabilities; and

''(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under parts B and C.

''(g) SELECTION OF RECIPIENTS.—

''(1) IMPACT OF PROJECT.—In selecting recipients under this section, the Secretary may consider the impact of the project proposed in the application in meeting the need for personnel identified by the States.

''(2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally-recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

''(3) PREFERENCES.—In selecting recipients under this section, the Secretary may—

''(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

''(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

''(h) SERVICE OBLIGATION.—

''(1) IN GENERAL.—Each application for funds under subsections (b) and (e), and to the extent appropriate subsection (d), shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

''(2) LEADERSHIP PREPARATION.—Each application for funds under subsection (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

''(i) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e).

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.

''SEC. 674. STUDIES AND EVALUATIONS.

''(a) STUDIES AND EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall, directly or through grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

''(A) a free appropriate public education to children with disabilities; and

''(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

''(2) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support studies, evaluations, and assessments, including studies that—

''(A) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;

''(B) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities;

''(C) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—

''(i) data on—

''(I) the number of minority children who are referred for special education evaluation;

''(II) the number of minority children who are receiving special education and related services and their educational or other service placement; and

''(III) the number of minority children who graduated from secondary and postsecondary education programs; and

''(ii) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

''(D) measure educational and transitional services and results of children with disabilities under this Act, including longitudinal studies that—

''(i) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

''(ii) examine educational results, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act; and

''(E) identify and report on the placement of children with disabilities by disability category.

''(b) NATIONAL ASSESSMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

''(A) to determine the effectiveness of this Act in achieving its purposes;

''(B) to provide information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

''(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

''(2) CONSULTATION.—The Secretary shall plan, review, and conduct the national assessment under this subsection in consultation with researchers, State practitioners, local practitioners, parents of children with disabilities, individuals with disabilities, and other appropriate individuals.

''(3) SCOPE OF ASSESSMENT.—The national assessment shall examine how well schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary are achieving the purposes of this Act, including—

''(A) improving the performance of children with disabilities in general scholastic activities and assessments as compared to nondisabled children;

''(B) providing for the participation of children with disabilities in the general curriculum;

''(C) helping children with disabilities make successful transitions from—

''(i) early intervention services to preschool education;

''(ii) preschool education to elementary school; and

''(iii) secondary school to adult life;

''(D) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

''(E) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

''(F) addressing behavioral problems of children with disabilities as compared to nondisabled children;

''(G) coordinating services provided under this Act with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources;

''(H) providing for the participation of parents of children with disabilities in the education of their children; and

''(I) resolving disagreements between education personnel and parents through activities such as mediation.

''(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

''(A) an interim report that summarizes the preliminary findings of the assessment not later than October 1, 1999; and

''(B) a final report of the findings of the assessment not later than October 1, 2001.

''(c) ANNUAL REPORT.—The Secretary shall report annually to the Congress on—

''(1) an analysis and summary of the data reported by the States and the Secretary of the Interior under section 618;

''(2) the results of activities conducted under subsection (a);

''(3) the findings and determinations resulting from reviews of State implementation of this Act.

''(d) TECHNICAL ASSISTANCE TO LEAS.—The Secretary shall provide directly, or through grants, contracts, or cooperative agreements, technical assistance to local educational agencies to assist them in carrying out local capacity-building and improvement projects under section 611(f)(4) and other LEA systemic improvement activities under this Act.

''(e) RESERVATION FOR STUDIES AND TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the Secretary may reserve up to one-half of one percent of the amount appropriated under parts B and C for each fiscal year to carry out this section.

''(2) MAXIMUM AMOUNT.—For the first fiscal year in which the amount described in paragraph (1) is at least $20,000,000, the maximum amount the Secretary may reserve under paragraph (1) is $20,000,000. For each subsequent fiscal year, the maximum amount the Secretary may reserve under paragraph (1) is $20,000,000, increased by the cumulative rate of inflation since the fiscal year described in the previous sentence.

''(3) USE OF MAXIMUM AMOUNT.—In any fiscal year described in paragraph (2) for which the Secretary reserves the maximum amount described in that paragraph, the Secretary shall use at least half of the reserved amount for activities under subsection (d).

''Chapter 2—Improving Early Intervention, Educational, and Transitional Services and Results for Children With Disabilities Through Coordinated Technical Assistance, Support, and Dissemination of Information

''SEC. 681. FINDINGS AND PURPOSES.

''(a) IN GENERAL.—The Congress finds as follows:

''(1) National technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

''(2) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

''(3) Parent training and information activities have taken on increased importance in efforts to assist parents of a child with a disability in dealing with the multiple pressures of rearing such a child and are of particular importance in—

''(A) ensuring the involvement of such parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;

''(B) achieving quality early intervention, educational, and transitional results for children with disabilities;

''(C) providing such parents information on their rights and protections under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

''(D) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 674(b)(3)(C); and

''(E) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families.

''(4) Providers of parent training and information activities need to ensure that such parents who have limited access to services and supports, due to economic, cultural, or linguistic barriers, are provided with access to appropriate parent training and information activities.

''(5) Parents of children with disabilities need information that helps the parents to understand the rights and responsibilities of their children under part B.

''(6) The provision of coordinated technical assistance and dissemination of information to State and local agencies, institutions of higher education, and other providers of services to children with disabilities is essential in—

''(A) supporting the process of achieving systemic change;

''(B) supporting actions in areas of priority specific to the improvement of early intervention, educational, and transitional results for children with disabilities;

''(C) conveying information and assistance that are—

''(i) based on current research (as of the date the information and assistance are conveyed);

''(ii) accessible and meaningful for use in supporting systemic-change activities of State and local partnerships; and

''(iii) linked directly to improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(D) organizing systems and information networks for such information, based on modern technology related to—

''(i) storing and gaining access to information; and

''(ii) distributing information in a systematic manner to parents, students, professionals, and policymakers.

''(7) Federal support for carrying out technology research, technology development, and educational media services and activities has resulted in major innovations that have significantly improved early intervention, educational, and transitional services and results for children with disabilities and their families.

''(8) Such Federal support is needed—

''(A) to stimulate the development of software, interactive learning tools, and devices to address early intervention, educational, and transitional needs of children with disabilities who have certain disabilities;

''(B) to make information available on technology research, technology development, and educational media services and activities to individuals involved in the provision of early intervention, educational, and transitional services to children with disabilities;

''(C) to promote the integration of technology into curricula to improve early intervention, educational, and transitional results for children with disabilities;

''(D) to provide incentives for the development of technology and media devices and tools that are not readily found or available because of the small size of potential markets;

''(E) to make resources available to pay for such devices and tools and educational media services and activities;

''(F) to promote the training of personnel—

''(i) to provide such devices, tools, services, and activities in a competent manner; and

''(ii) to assist children with disabilities and their families in using such devices, tools, services, and activities; and

''(G) to coordinate the provision of such devices, tools, services, and activities—

''(i) among State human services programs; and

''(ii) between such programs and private agencies.

''(b) PURPOSES.—The purposes of this chapter are to ensure that—

''(1) children with disabilities, and their parents, receive training and information on their rights and protections under this Act, in order to develop the skills necessary to effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services and in systemic-change activities;

''(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such persons, through systemic-change activities and other efforts, to improve early intervention, educational, and transitional services and results for children with disabilities and their families;

''(3) appropriate technology and media are researched, developed, demonstrated, and made available in timely and accessible formats to parents, teachers, and all types of personnel providing services to children with disabilities to support their roles as partners in the improvement and implementation of early intervention, educational, and transitional services and results for children with disabilities and their families;

''(4) on reaching the age of majority under State law, children with disabilities understand their rights and responsibilities under part B, if the State provides for the transfer of parental rights under section 615(m); and

''(5) the general welfare of deaf and hard-of-hearing individuals is promoted by—

''(A) bringing to such individuals understanding and appreciation of the films and television programs that play an important part in the general and cultural advancement of hearing individuals;

''(B) providing, through those films and television programs, enriched educational and cultural experiences through which deaf and hard-of-hearing individuals can better understand the realities of their environment; and

''(C) providing wholesome and rewarding experiences that deaf and hard-of-hearing individuals may share.

''SEC. 682. PARENT TRAINING AND INFORMATION CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

''(b) REQUIRED ACTIVITIES.—Each parent training and information center that receives assistance under this section shall—

''(1) provide training and information that meets the training and information needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified;

''(2) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 615(e);

''(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

''(4) assist parents to—

''(A) better understand the nature of their children's disabilities and their educational and developmental needs;

''(B) communicate effectively with personnel responsible for providing special education, early intervention, and related services;

''(C) participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

''(D) obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

''(E) understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

''(F) participate in school reform activities;

''(5) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 615(e)(2), individuals who meet with parents to explain the mediation process to them;

''(6) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d), and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and

''(7) annually report to the Secretary on—

''(A) the number of parents to whom it provided information and training in the most recently concluded fiscal year; and

''(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

''(c) OPTIONAL ACTIVITIES.—A parent training and information center that receives assistance under this section may—

''(1) provide information to teachers and other professionals who provide special education and related services to children with disabilities;

''(2) assist students with disabilities to understand their rights and responsibilities under section 615(m) on reaching the age of majority; and

''(3) assist parents of children with disabilities to be informed participants in the development and implementation of the State's State improvement plan under subpart 1.

''(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

''(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

''(2) to work with community-based organizations.

''(e) DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

''(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

''(f) QUARTERLY REVIEW.—

''(1) REQUIREMENTS.—

''(A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

''(B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

''(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

''(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization (other than an institution of higher education) that—

''(1) has a board of directors—

''(A) the majority of whom are parents of children with disabilities;

''(B) that includes—

''(i) individuals working in the fields of special education, related services, and early intervention; and

''(ii) individuals with disabilities; and

''(C) the parent and professional members of which are broadly representative of the population to be served; or

''(2) has—

''(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

''(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

"SEC. 683. COMMUNITY PARENT RESOURCE CENTERS.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

''(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

''(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

''(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

''(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

''(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 682(b);

''(3) establish cooperative partnerships with the parent training and information centers funded under section 682; and

''(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

''(c) DEFINITION.—As used is this section, the term 'local parent organization' means a parent organization, as defined in section 682(g), that either—

''(1) has a board of directors the majority of whom are from the community to be served; or

''(2) has—

''(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

''(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

"SEC. 684. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

''(a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 682 and 683.

''(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

''(1) effective coordination of parent training efforts;

''(2) dissemination of information;

''(3) evaluation by the center of itself;

''(4) promotion of the use of technology, including assistive technology devices and assistive technology services;

''(5) reaching underserved populations;

''(6) including children with disabilities in general education programs;

''(7) facilitation of transitions from—

''(A) early intervention services to preschool;

''(B) preschool to school; and

''(C) secondary school to postsecondary environments; and

''(8) promotion of alternative methods of dispute resolution.

"SEC. 685. COORDINATED TECHNICAL ASSISTANCE AND DISSEMINATION.

''(a) IN GENERAL.—The Secretary shall, by competitively making grants or entering into contracts and cooperative agreements with eligible entities, provide technical assistance and information, through such mechanisms as institutes, Regional Resource Centers, clearinghouses, and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

''(b) SYSTEMIC TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support technical assistance activities, consistent with the objectives described in subsection (a), relating to systemic change.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Assisting States, local educational agencies, and other participants in partnerships established under subpart 1 with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities.

''(B) Promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes.

''(C) Increasing the depth and utility of information in ongoing and emerging areas of

priority need identified by States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes.

''(D) Promoting communication and information exchange among States, local educational agencies, and other participants in partnerships, based on the needs and concerns identified by the participants in the partnerships, rather than on externally imposed criteria or topics, regarding—

''(i) the practices, procedures, and policies of the States, local educational agencies, and other participants in partnerships; and

''(ii) accountability of the States, local educational agencies, and other participants in partnerships for improved early intervention, educational, and transitional results for children with disabilities.

''(c) SPECIALIZED TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support activities, consistent with the objectives described in subsection (a), relating to areas of priority or specific populations.

''(2) AUTHORIZED ACTIVITIES.—Examples of activities that may be carried out under this subsection include activities that—

''(A) focus on specific areas of high-priority need that—

''(i) are identified by States, local educational agencies, and other participants in partnerships;

''(ii) require the development of new knowledge, or the analysis and synthesis of substantial bodies of information not readily available to the States, agencies, and other participants in partnerships; and

''(iii) will contribute significantly to the improvement of early intervention, educational, and transitional services and results for children with disabilities and their families;

''(B) focus on needs and issues that are specific to a population of children with disabilities, such as the provision of single-State and multi-State technical assistance and in-service training—

''(i) to schools and agencies serving deaf-blind children and their families; and

''(ii) to programs and agencies serving other groups of children with low-incidence disabilities and their families; or

''(C) address the postsecondary education needs of individuals who are deaf or hard of hearing.

''(d) NATIONAL INFORMATION DISSEMINATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall carry out or support information dissemination activities that are consistent with the objectives described in subsection (a), including activities that address national needs for the preparation and dissemination of information relating to eliminating barriers to systemic-change and improving early intervention, educational, and transitional results for children with disabilities.

''(2) AUTHORIZED ACTIVITIES.—Examples of activities that may be carried out under this subsection include activities relating to—

''(A) infants and toddlers with disabilities and their families, and children with disabilities and their families;

''(B) services for populations of children with low-incidence disabilities, including deaf-blind children, and targeted age groupings;

''(C) the provision of postsecondary services to individuals with disabilities;

''(D) the need for and use of personnel to provide services to children with disabilities, and personnel recruitment, retention, and preparation;

''(E) issues that are of critical interest to State educational agencies and local educational agencies, other agency personnel, parents of children with disabilities, and individuals with disabilities;

''(F) educational reform and systemic change within States; and

''(G) promoting schools that are safe and conducive to learning.

''(3) LINKING STATES TO INFORMATION SOURCES.—In carrying out this subsection, the Secretary may support projects that link States to technical assistance resources, including special education and general education resources, and may make research and related products available through libraries, electronic networks, parent training projects, and other information sources.

''(e) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''SEC. 686. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out sections 681 through 685 such sums as may be necessary for each of the fiscal years 1998 through 2002.

''SEC. 687. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION, AND MEDIA SERVICES.

''(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).

''(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Conducting research and development activities on the use of innovative and emerging technologies for children with disabilities.

''(B) Promoting the demonstration and use of innovative and emerging technologies for children with disabilities by improving and expanding the transfer of technology from research and development to practice.

''(C) Providing technical assistance to recipients of other assistance under this section, concerning the development of accessible, effective, and usable products.

''(D) Communicating information on available technology and the uses of such technology to assist children with disabilities.

''(E) Supporting the implementation of research programs on captioning or video description.

''(F) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

''(G) Demonstrating the use of publicly-funded telecommunications systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

''(c) EDUCATIONAL MEDIA SERVICES; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary shall support—

''(1) educational media activities that are designed to be of educational value to children with disabilities;

''(2) providing video description, open captioning, or closed captioning of television programs, videos, or educational materials through September 30, 2001; and after fiscal year 2001, providing video description, open captioning, or closed captioning of educational, news, and informational television, videos, or materials;

''(3) distributing captioned and described videos or educational materials through such mechanisms as a loan service;

''(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools;

''(5) providing cultural experiences through appropriate nonprofit organizations, such as the National Theater of the Deaf, that—

''(A) enrich the lives of deaf and hard-of-hearing children and adults;

''(B) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

''(C) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences; and

''(6) compiling and analyzing appropriate data relating to the activities described in paragraphs (1) through (5).

''(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002.''.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. EFFECTIVE DATES.

(a) PARTS A AND B.—

(1) IN GENERAL.—Except as provided in paragraph (2), parts A and B of the Individuals with Disabilities Education Act, as amended by title I, shall take effect upon the enactment of this Act.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Sections 612(a)(4), 612(a)(14), 612(a)(16), 614(d) (except for paragraph (6)), and 618 of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on July 1, 1998.

(B) SECTION 617.—Section 617 of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on October 1, 1997.

(C) INDIVIDUALIZED EDUCATION PROGRAMS AND COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—Section 618 of the Individuals with Disabilities Education Act, as in effect on the day before the date of the enactment of this Act, and the provisions of parts A and B of the Individuals with Disabilities Education Act relating to individualized education programs and the State's comprehensive system of personnel development, as so in effect, shall remain in effect until July 1, 1998.

(D) SECTIONS 611 AND 619.—Sections 611 and 619, as amended by title I, shall take effect beginning with funds appropriated for fiscal year 1998.

(b) PART C.—Part C of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on July 1, 1998.

(c) PART D.—

(1) IN GENERAL.—Except as provided in paragraph (2), part D of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on October 1, 1997.

(2) EXCEPTION.—Paragraphs (1) and (2) of section 661(g) of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on January 1, 1998.

SEC. 202. TRANSITION.

Notwithstanding any other provision of law, beginning on October 1, 1997, the Secretary of Education may use funds appropriated under part D of the Individuals with Disabilities Education Act to make continuation awards for projects that were funded under section 618 and parts C through G of such Act (as in effect on September 30, 1997).

SEC. 203. REPEALERS.

(a) PART I.—Effective October 1, 1998, part I of the Individuals with Disabilities Education Act is hereby repealed.

(b) PART H.—Effective July 1, 1998, part H of such Act is hereby repealed.

(c) PARTS C, E, F, AND G.—Effective October 1, 1997, parts C, E, F, and G of such Act are hereby repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. CLAY] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, today the House of Representatives considers H.R. 5, the Individuals with Disabilities Education Act Amendments of 1997. This bill is the culmination of over 2 years of work by the Committee on Education and the Workforce.

Republicans believe that there is nothing more important to the future of our country than providing the opportunity for a high-quality education for all Americans. We believe this can be achieved by working together to build on what works, improving basic academics, increasing parental involvement, and moving dollars to the classroom.

In my view, H.R. 5 represents a significant step in that direction. H.R. 5 focuses the act on children's education instead of process and bureaucracy. This legislation has taken a unique path toward enactment, and I am proud to have led it to where it stands today.

Earlier this year, Chairman JEFFORDS, the gentleman from California, Mr. RIGGS, and I decided to establish a bipartisan, bicameral negotiating process to develop a consensus bill acceptable to all Members of Congress. In February we proposed this idea to our Democrat counterparts and to the administration.

As part of this process, we proposed to invite members of the interested public to participate in the development of the legislation, including educators, parents, and disability advocates. Our House and Senate Democrat colleagues accepted our offer, as did the Department of Education, and for the last 3 months we have worked to create that consensus legislation.

This process was truly historic. I never saw this happen in the 20 years that I have been here. The discussions were an open public dialog on the content of legislation, right down to every line of text that we will pass today.

During weekly sessions since mid-March, educators, parents, and other professionals from around the country have flown to Washington, DC, at their own expense to suggest changes to IDEA. In off-the-record meetings open to any member of the general public, people expressed honest views with candor and thought, and their voices have strongly influenced the work that makes up the bill.

The change in the IDEA amendments will have positive impacts in the lives of millions of students with disabilities. There will be an emphasis on what works, instead of filling out paperwork. These changes will mean more time for teachers to dedicate to their students, and fewer resources wasted on process. The bill will assure parents' ability to participate in key decisionmaking meetings about their children's education. It ensures that States will offer mediation service to resolve disputes, and will reform the litigation system that too often impedes children's education instead of giving them access to education.

Local principals and school administrators will be given more flexibility. The bill includes a provision that will give local schools tremendous relief from IDEA funding mandates, which I might indicate came from the Federal Government, by giving schools the flexibility to actually reduce their own IDEA funding levels. This is an action unprecedented in Federal law.

The bill also ensures that local schools receive more Federal funds by capping State administrative costs at current dollar levels, to ensure that 90 to 98 percent of appropriations increases will go to local schools. The bill will make schools safer for all students, disabled and nondisabled, and for their teachers.

The bill codifies existing authority to suspend a student for 10 days without educational services, and expands upon current procedures for students with firearms. We will enable schools to quickly remove students who bring weapons or drugs to school, regardless of their disability status.

The legislation will also ensure that disability status will not affect the school's general disciplinary procedures where appropriate. Where a child's actions are not a manifestation of his or her disability, schools will need to take the same action with disabled children as they would with any child.

Finally, I would like to talk about the Federal funding formula. This is a major step in the move to reduce the overidentification of children as disabled, particularly African-American males who have been pushed into the special education system in disproportionate numbers.

Changes to IDEA in this bill have garnered broad support and praise from educators and disability groups. Before closing, I would like to particularly thank several of my colleagues who have worked on this historic markup. The subcommittee chairman, the gentleman from California [Mr. RIGGS], has worked many hours on the legislation, and I thank him for his work. In addition, the gentleman from Delaware [Mr. CASTLE] and the gentleman from South Carolina [Mr. GRAHAM] have participated as House Republicans.

I would like to thank my Democrat colleagues, the gentleman from Missouri, Mr. CLAY, the gentleman from California, Mr. MARTINEZ, the gentleman from California, Mr. MILLER, and the gentleman from Virginia, Mr. SCOTT, who worked with us in this process, and our Senate colleagues, Majority Leader LOTT and Senators JEFFORDS, COATS, KENNEDY, and HARKIN. The Department of Education, and its staff, particularly Assistant Secretary Judy Heumann, are to be thanked as well.

Our congressional staffs have spent hours and hours and hours, and I want to thank all on both sides of the aisle. I particularly want to recognize Todd Jones, who, as I said the other day, can probably recite any line in this legislation. All you have to do is ask him, and he will tell you the page and probably the line. I thank all for this historic day.

Mr. Speaker, I include for the RECORD the following letters regarding the legislation.

The letters referred to are as follows:

AMERICA ASSOCIATION OF SCHOOL ADMINISTRATORS,
Arlington, VA, May 5, 1997.

Hon. WILLIAM F. GOODLING,
House Education and the Workforce Committee
2181 Rayburn House Office Building,
Washington, DC

DEAR CHAIRMAN GOODLING: The American Association of School Administrators (AASA) would like to thank you for the wonderful manner in which you guided the reauthorization of the Individuals with Disabilities Education Act through difficult negotiations. AASA is in full support of the IDEA as reported by the House and Senate working group. Your plan of creating one set of negotiations worked better than any of us could ever have predicted.

Local superintendents have been particularly alarmed by the fact that local school districts were bearing the entire brunt of paying for IDEA as costs escalated over the last ten years. Paying for IDEA required not one single legislative fix, but a combination of changes that included: large increases in federal funds; driving a greater share of those funds to schools; creating fairer expectations for state and local sharing of IDEA costs; forced cost sharing of related service with other local and state agencies; and cutting costs of IDEA without hurting children. We are pleased that you addressed all of our concerns regarding the costs of IDEA.

As with most legislation, there is considerable give and take and no one can be pleased with every single provision of the bill. However, because H.R. 5 puts children first we can support it. Children with disabilities are the clear victors in this bill because the program is simpler and better connected to schools in general, especially where children are directly affected, such as evaluations, instruction, and related services. All children are winners because students who bring weapons or drugs to school are easier to remove to alternative settings, as would happen to any student in a similar situation. Make no mistake, IDEA is still a complicated program to administer. Involving parents and other agencies (such as health

care) in planning and service delivery may be a challenge, but the bill shifts these complications away from educators who are already over burdened with paperwork.

We thank you for your leadership in crafting a bill that addresses the cost concerns of superintendents, simplifies the process for children, and eliminates some paperwork for educators. This is a remarkable accomplishment.

Sincerely,

BRUCE HUNTER,
Senior Associate Executive Director.

NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS,
Alexandria, VA, May 6, 1997.

DEAR REPRESENTATIVE:

The National Association of Elementary School Principals (NAESP), representing 27,000 elementary and middle school principals, urges your support of the Individuals With Disabilities Act (IDEA) reauthorization bill when it comes before the Education and the Workforce Committee for a mark-up on Wednesday, May 7. While the bill does not make all the changes NAESP has sought, it represents a reasonable compromise that will help to update the IDEA.

We appreciate the expansion of the discipline provisions to enhance the power of principals to take quick action to make schools safe for all students. We are also pleased that the draft reauthorization bill makes some reasonable changes in the attorneys' fees provision and encourages the use of mediation to solve disputes between families and school personnel. The provision subjecting U.S. Department of Education policy letters to public review and comment is a welcome one. Finally, we are very pleased that the bill has no provision allowing for the cessation of educational services.

NAESP congratulates the leaders in both chambers, the committee and subcommittee chairmen and ranking members, and IDEA staff working group on the prodigious work on an issue that elicits strong emotions on all sides. We hope the legislation will proceed smoothly through action in committee and on the House and Senate floors and be readily enacted into law.

Sincerely,

SALLY N. MCCONNELL,
Director of Government Relations.

This letter is being sent to members of the Committee on Education and the Workforce.

COUNCIL OF THE GREAT CITY SCHOOLS,
Washington, DC, May 5, 1997.

Hon. WILLIAM GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Council of the Great City Schools, a coalition of the nation's largest central city school districts, writes to support H.R. 5, the IDEA Reauthorization bill, based on the drafts and explanations which we have received to date. The Council's fifty urban schools districts represent a major segment of the national public education system, enrolling six and a half million children, over 35% of the nation's poor children, 40% of the nation's minority children, and nearly ¾ million disabled children in 8000 schools with 300,000 teachers.

From the outset of your IDEA legislative effort back in 1995, the Council called for a balance bill which would make significant progress in delivering effective services to disabled school children and relieve some of the costs, requirements, and financial burdens placed upon local school districts. Although some issues of importance to the Council might have been addressed more fully, the Council's overall conclusion regarding the bill is distinctly positive.

We believe that H.R. 5, the IDEA Reauthorization, makes significant progress over current law, while retaining the critical protections and directions of this landmark federal statute. H.R. 5 deserves expeditious passage by the 105th Congress without substantial change.

Sincerely,

MICHAEL CASSERLY, *Executive Director.*

BOARD OF EDUCATION OF THE CITY OF NEW YORK,
Brooklyn, NY, May 6, 1997.

Hon. WILLIAM GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in support of H.R. 5, the IDEA Reauthorization bill, based on the drafts and explanations that we have received to date.

The provision of special education services and programs to all eligible students has become one of the biggest challenges facing school districts today, especially large urban school districts. Although significant progress has been made in providing a free and appropriate education to all disabled students, the New York City school district, as well as school systems across the nation, continues to struggle with the following issues:

A virtual absence of support services in general education which precludes the provision of prevention/intervention services.

An excess of students being inappropriately referred to special education services when service should be provided in general education.

A focus on compliance-driven model with little attention to student achievement.

A systematic provision of special education services in separate classes.

The need to reduce inappropriate and disproportionate referrals and placement of minority and LEP students in special education.

Based on our analysis of the working drafts, I believe that this bill goes a long way toward addressing many of these issues. Although in any sizable draft legislation, there will be areas of concern and disagreement, the bill overall appears to be balanced and fair. Some costly requirements have been removed or modified from current law, and some of the financial burdens now shouldered by local school districts appear to have been relieved. These revisions should result in improvement of services for disabled children and a more manageable special education program in general.

For the foregoing reasons, I urge you to move expeditiously H.R. 5 through the legislative process without changing the substantive provisions which have produced this balanced bill.

Sincerely yours,

RUDOLPH F. CREW, *Chancellor.*

LOS ANGELES UNIFIED SCHOOL DISTRICT,
Los Angeles, CA, May 6, 1997.

Hon. WILLIAM GOODLING,
Chair, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GOODLING: The Los Angeles Unified School District supports H.R. 5, the Individuals with Disabilities Education Act (IDEA) reauthorization bill, based on the drafts and explanations that we have received to date.

Together with representatives of a number of other large school districts across the country, our staff went to Washington for two days last week to review the product of the IDEA working group. Although in any sizable legislative draft, there may be issues that produce concern, the bill overall appears balanced, fair, workable, and not overly prescriptive—an improvement of the current law. Some costly requirements have been removed or modified, such as interagency state maintenance. These revisions should result in improved services for disabled children and a more manageable special education program in general.

We respectfully request that the proposed IDEA reauthorization be moved expeditiously through the legislative process without changing the substantive provisions that have produced a balanced bill.

Sincerely,

RONALD PRESCOTT,
Associate Superintendent.

CHICAGO PUBLIC SCHOOLS,
Chicago, IL, May 5, 1997.

Hon. WILLIAM GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Chief Executive Officer of the Chicago Public Schools, I am writing to voice my strong support of H.R. 5, the IDEA Reauthorization bill. Based on the drafts and explanations which I have received to date, the bill contains significant improvements over the current Federal special education law.

The work product of the IDEA Working Group provides a number of changes to the current law that would enable our staff to spend a greater period of time on direct services to children. Although suggestions could be given for any draft of legislation, the bill appears to be balanced and fair. Several costly requirements have been removed or modified from current law, such as relief in the area of attorney fees and reimbursement of unilateral placements by parents. These revisions should result in improvement of services for students with disabilities and a more manageable special education services in general.

I urge you to expeditiously move this IDEA Reauthorization through the legislative process without changing the substantive provisions which have produced this balanced bill.

Sincerely,

PAUL VALLAS,
Chief Executive Officer.

THE SCHOOL DISTRICT OF PHILADELPHIA,
Philadelphia, PA, May 5, 1997.

Hon. WILLIAM GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Our participation in discussions, sponsored by the Council of the Great City Schools on the reauthorization of IDEA, has led us to include that the bill represents a step forward in service for children with special needs. We recommend adoption of the present IDEA reauthorization.

We have expressed our suggestions through the Council of the Great City Schools, for certain clarifications in wording as well as potential issues regarding over regulation. Despite these reservations, we do believe that this legislation, particularly its modification of financial assignments, will help us to better serve the school children of Philadelphia.

We recommend your full support to bring the presently drafted IDEA reauthorization to law.

Sincerely,

DAVID W. HORNBECK, *Superintendent.*

BOSTON PUBLIC SCHOOLS,
Boston, MA, May 6, 1997.

Hon. WILLIAM GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Superintendent of the Boston Public School District, I write to support H.R. 5, the IDEA Reauthorization bill, based on the drafts and explanations which we have received to date.

Together with a number of other major school districts across the country, our staff came to Washington for two days last week to review the work product of the IDEA Working Group. Although in any sizable draft piece of legislation or legislative analysis there will be issues which produce concern, overall the bill appears balanced and fair. It seems to be a workable revision of this landmark Act, which if not over-regulated, would be an improvement to current law. Some costly requirements have been removed or modified from current law, and some of the financial burdens now shouldered by local school districts appear to have been relieved. These revisions should result in improvement of services for disabled children and a more manageable special education program in general.

I encourage you to expeditiously move this IDEA Reauthorization through the legislative process without changing the substantive provisions which have produced this balanced bill.

Sincerely,
THOMAS W. PAYZANT, *Superintendent.*

THE ARC OF THE UNITED STATES,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, May 5, 1997.

Congressman BILL GOODLING,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: The Arc, the nation's leading organization advocating for children and adults with mental retardation and their families, has great interest in the reauthorization of the Individuals with Disabilities Education Act. More than 10% of students with disabilities served by IDEA have the label mental retardation.

The Arc wishes to convey its deep appreciation to you and your staff, particularly Sally Lovejoy and Todd Jones, for your untiring efforts to achieve the reauthorization of this vital law.

A review of the IDEA Staff Working Group draft in circulation as of today reveals some changes in the law that, if enacted, would improve educational opportunities for students with mental retardation. The Arc appreciates especially the removal from the draft bill of provisions regarding the cessation of educational services and the disciplining of students with disabilities alleged to be ''disruptive''. Other modifications may not be so clearly beneficial or may even be detrimental.

Although each provision in this bill requires scrutiny, it is important that the bill as a whole be assessed. Consequently, taken as a whole, The Arc has determined that the bill is balanced. Thus, we urge this Congress to reauthorize IDEA in accordance with the bill as developed by the Working Group.

Sincerely,
QUINCY ABBOT,
President.

NATIONAL DOWN SYNDROME SOCIETY,
New York, NY, May 6, 1997.

Hon. WILLIAM F. GOODLING,
U.S. House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN GOODLING: Thank you for your continued efforts on behalf of reauthorizing the Individuals with Disabilities Education Act (IDEA). The consensus process initiated last year under your leadership has now culminated in a bill with bipartisan, bicameral support. You and your staffs continued involvement and hard work to achieve agreement on the IDEA reauthorization are very much appreciated.

The proposed bill, circulated by the IDEA Working Group on May 2, contains a number of important provisions that will improve educational outcomes for students, strengthen accountability, and increase parental participation. While we do have concerns about certain provisions of the bill, particularly some of the changes to personnel standards and discipline, we recognize that this legislation represents a delicate balance of competing concerns and interests. Taken as a whole, it represents a fair balance among those interests and should be passed.

In closing, please note that our organization, the National Down Syndrome Society, is separate from the National Down Syndrome Congress. Due to the similarity of the names, these two organizations are sometimes confused. Thank you again for your work to reauthorize the IDEA. We look forward to continuing to work with you and your staff through the legislative process.

Sincerely,
ELIZABETH GOODWIN,
President.

NATIONAL ASSOCIATION OF
SCHOOL PSYCHOLOGISTS,
Bethesda, MD, May 6, 1997.

Hon. WILLIAM GOODLING,
Chairman, House Education and Workforce Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN GOODLING: The National Association of School Psychologist commends your leadership in establishing the historic consensus building in the drafting of legislative language for the amendments to and reauthorization of IDEA. This historic, cooperative effort produced legislation which has the potential for improving the educational results for all our children and youth with disabilities. It shows that Republicans and Democrats under your leadership, in cooperation with Assistant Secretary Judith Heumann, can produce positive, family-friendly legislation with a focus on positive academic and behavioral results for children with disabilities.

The National Association of School Psychologists will strive to turn this legislation into practice through school based teamwork with parents, teachers and administrators that ensures effective evaluations, instructional and behavioral interventions, measurement and analysis of results, and careful concern for individualization, inclusion and non-biased services. We will partner with others to ensure that all children will be educated in schools and classrooms that are safe and conducive to learning for all. School psychologists, working with others, will assist teachers, design and provide interventions to help all children with disabilities reach their goals and ensure that those children with challenging behaviors will be supportively educated with their peers as this law intends.

We thank the Committee and its leadership for truly making a good law better by improving the focus on results. We look forward to effective implementation, ongoing meaningful monitoring, and researched findings leading toward national best practices for the more than five million children served under IDEA.

Sincerely,
KEVIN P. DWYER,
NCSP, Assistant Executive Director.

MAY 6, 1997.

Congressman WILLIAM F. GOODLING,
Chairman, Committee on Education and the Workforce, U.S. House of Representatives, Rayburn Building, Washington, DC.

DEAR MR. GOODLING: I am writing to commend you and to express my gratitude to you, particularly you, but also to your colleagues in the House of Representatives and the Senate, for the courage you have exhibited in creating the Individual With Disabilities Education Act (IDEA) Working Group and the IDEA Working Group process. In developing an admirably fair and democratic discussion open to the organizations and individuals interested in the IDEA, the final product is a draft piece of legislation that focuses on achieving strong educational outcomes of children. The bill, if enacted, will allow increased fiscal flexibility as well as greater school-based innovation and accountability. I strongly urge you to support the passage of this bill.

Sincerely,
MADELEINE C. WILL,
Former Assistant Secretary, Reagan Administration.

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, DC, May 7, 1997.

Hon. TRENT LOTT,
U.S. Senate,
Washington, DC.

DEAR SENATOR LOTT: On behalf of the American Psychological Association (APA), its 151,000 members and affiliates, and the families and children they serve, I would like to commend the Working Group on the Individuals with Disabilities Education Act (IDEA) for the thoughtful effort that has gone into developing the current IDEA draft. APA appreciates that the draft represents significant effort on the Working Group's part to balance the sometimes conflicting needs of various interest groups toward timely reauthorization of this important Act.

APA is particularly pleased with several provisions of the draft language. These include:

Provisions that enable children under age nine to obtain special education and related services upon manifestation of a developmental delay and without the need for disability labelling;

Provisions that guarantee continuation of free and appropriate public educational services for children with disabilities regardless of their placement;

The requirement that states establish voluntary mediation procedures prior to due process hearings;

The elimination of the nebulous category of ''seriously disruptive'' as justification for suspension or expulsion of a child with a disability;

The elimination of cessation of services as an appropriate option for discipline of children with disabilities;

The attempts to increase the participation of students with disabilities in state and district-wide assessments; and

The provisions surrounding the conduct of evaluations that emphasize the need for a variety of assessment tools and strategies, the use of multiple measures, and the assessment of cognitive and behavioral factors in addition to physical and developmental factors.

These changes enable APA to support the draft, with the following modifications suggested.

(1) Qualifications of supervisors of paraprofessionals need to be specified. In Section 612(15)(C) the Working Group draft allows appropriately trained paraprofessionals who are supervised to provide special education and related services in areas where personnel

shortages occur. The language does not, however, specify that supervisors of paraprofessionals should be qualified (i.e., certified or licensed) service providers and should only supervise paraprofessionals in their own discipline. Adding this requirement (A) enhances and ensures the quality of service, and (B) reduces cost and potential liability from due process proceedings alleging inaccurate diagnosis or inappropriate treatment and placement provided by less than qualified service providers.

(2) Individual IEP team members should be restricted to interpretation of assessment results for which they are qualified (i.e., discipline-specific). Section 614(a)(4)(A) calls for the determination of disability to be made by a team of qualified professionals (i.e., the IEP team). Section 614(d)(1)(B)(v) requires that an individual who can interpret the instructional implications of the assessment results be included in the IEP team. Although it seems that the Act's intent is for the composition of the IEP team to include professionals qualified to interpret assessment results in their respective areas of qualification (e.g., a medical professional to interpret medical findings, a psychologist to interpret psychological findings), the existing language does not clearly or sufficiently specify this intent.

A specific requirement that qualified assessment professionals be included in the IEP team and interpret and apply assessment findings only within their respective disciplines will ensure cost-effectiveness in IEP diagnosis, treatment planning, and placement by (A) ensuring accurate assessment interpretation and application, and (B) reducing potential due process liability resulting from allegations of inappropriate interpretation and application of assessment data. Furthermore, if appropriately qualified assessment professionals are included in the IEP team, their expertise also will be cost-effective for interpreting and applying assessment findings for disciplinary manifestation determinations.

On behalf of the APA and children with and without disabilities and the adults who care for them, I thank you for your tireless efforts toward achieving a balanced IDEA draft. Please feel free to contact me if APA can be of any assistance as IDEA continues through the legislative and regulatory process.

Sincerely,

RAYMOND D. FOWLER, Ph.D.,
Executive Vice President and Chief Executive Officer.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, May 12, 1997.

Hon. WILLIAM F. GOODLING,
U.S. House of Representatives,
Washington, DC.

DEAR REP. GOODLING: I am writing on behalf of the American Bar Association to express our strong support for H.R. 5, legislation approved by the House Committee on Education and the Workforce May 7, 1997, to reauthorize the Individuals with Disabilities Education Act (IDEA). We applaud your leadership in particular in working to resolve differences that had stalled action on the reauthorization of IDEA for over a year, and we urge the Senate to support the bill that has now come forward.

IDEA is an essential component of the federal government's commitment to the civil rights of persons with disabilities. Like other civil statutes, IDEA provides legal recourse for parents of children with disabilities when school districts refuse to comply with the law. Under current law, parents are entitled to a due process hearing to challenge the identification, evaluation and educational placement of their child.

The ABA supports the proposed provision in H.R. 5 to expand the Act's due process guarantees to include a right to pursue a claim through mediation. If properly implemented, mediation can be a cost-effective form of alternative dispute resolution. However, proper implementation requires that the mediation process include adequate safeguards to protect the constitutional rights of students with disabilities to a free appropriate education. In this regard, the Education and the Workforce-reported bill is a distinct improvement on previous versions of IDEA reauthorization legislation. It permits parents to participate in mediation with their attorneys present. Previous bills would have removed attorneys from participation in a mediation or allowed their participation only at a second mediation, which we believe would have limited the efficacy and usefulness of the process. This change is consistent with our own experience in successful mediation. Our ABA Section of Dispute Resolution advises that mediation is more successful when there is the opportunity for voluntary participation by all individuals who are essential to resolving the dispute. It is important that the mediator ensure that the individuals necessary for the effective resolution of the matter participate in the first mediation.

Attorneys who represent a party are essential for a full and fair airing of the dispute and to arrive at an agreement. Clearly, this version of the bill will yield more favorable results in the mediation of these disputes.

The ABA strongly supports reauthorization of IDEA with expanded mediation opportunities. IDEA expresses the clear intent of Congress that children with mental, physical, or emotional disabilities should receive free appropriate public education. The Act also includes administrative and judicial remedies to protect the educational rights of children with disabilities and the rights of their parents or guardians to informed decision-making and participation in the provision of appropriate educational opportunities for their children. Your leadership and the hard work of your staff and many others has produced a strong, worthy bill, and we urge the strong support of the House for H.R. 5 and prompt reauthorization of IDEA.

Sincerely,

ROBERT D. EVANS.

MAY 6, 1997.

Hon. WILLIAM F. GOODLING,
U.S. House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN GOODLING: We, the undersigned national organizations, wish to commend the Members of Congress and their staff for their extraordinary efforts to reauthorize the Individuals with Disabilities Education Act. The bill as drafted by the IDEA Working Group as circulated on May 2 is, on the whole, fair and balanced legislation and should be adopted.

On behalf of:
National Parent Network on Diabilities.
Learning Disabilities Association.
The Arc.
National Easter Seal Society.
American Association of School Administrators.
National Education Association.
Autism Society of America.
National Association of the Deaf.
National Down Syndrome Society.
Epilepsy Foundation of America.
American Academy of Child & Adolescent Psychiatry.
American Association of University Affilated Programs.
American Foundation for the Blind.
American Physical Therapy Association.
American Speech-Language-Hearing Association.
Association for Education & Rehabilitation of the Blind and Visually Impaired.
National Association of Developmental Disabilities Councils.
National Association of Protection and Advocacy.
National Association of School Phychologists.
National Association of State Directors of Special Education.
National Coalition on Deaf-Blindness.
National Mental Health Association.

Mr. CLAY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, since the 104th Congress our committee has sought to reauthorize the Individuals with Disabilities in Education Act, particularly because it supports vitally important discretionary and early intervention programs for disabled children and their families. That objective has been a most daunting task, but today I am proud that we are one giant step closer to our goal. The bill before us not only reauthorizes the core of IDEA, but it also significantly builds and improves upon existing law.

Mr. Speaker, before IDEA was enacted in 1975, almost 2 million children with disabilities were denied a basic education.

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Another 2½ million received grossly inadequate educational services; 25 years ago, millions of American children were effectively denied the basic dignity of an education simply because they were disabled.

Mr. Speaker, today some 6 million children are educated under IDEA and they are able to enjoy productive, meaningful lives. There are many outstanding aspects of this reauthorization bill. It strengthens the role of parents in their children's education, it guarantees that educational services for even the most troubled children will continue, it maintains high personnel standards, and it provides for a nonadversarial context in which parents and school officials can voluntarily mediate their disputes.

Mr. Speaker, achievement of this consensus bill before us today is a truly remarkable example of what we can accomplish when we work together, Democrats and Republicans, the Congress and the administration, when we work together to address the needs of the most vulnerable in our society.

I wish to thank my House colleagues, particularly the chairman, the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. RIGGS], and the gentleman from California [Mr. MARTINEZ] for their leadership and commitment to make this process work. In addition, I also want to thank the respective staffs for their dedication to this task.

As my colleagues consider this bill today, let me remind them that it represents a very delicate compromise meant to balance the various concerns of many who care deeply about the children and the families affected by

IDEA. I know that Chairman GOODLING and I have received many letters of support and encouragement from education and disability groups, as well as from parent organizations and individual parents. We very much appreciate their kind words.

Mr. Speaker, I urge my colleagues to support this remarkable legislation.

Mr. CLAY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. RIGGS], the subcommittee chairman, who worked long and hard on the legislation.

Mr. RIGGS. Mr. Speaker, today is truly a remarkable and historic day. It is, I guess, a real tribute to the hard work of our staffs on a bipartisan basis that we could bring this bill, reforming and improving the landmark Federal civil rights and special education statute to the House floor under suspension of the rules, and I want to salute all involved.

As Chairman GOODLING has said, the Individuals with Disabilities Education Act will help children with disabilities by focusing on their education instead of process and bureaucracy, by increasing the participation and the role of parents in the education of their children, and by giving teachers the tools that they need to teach all children.

Let me just explain that the bill that we are considering on the floor today improves the connection of students with disabilities to the regular education curriculum and provides for increased accountability for educational results. It is really significant that we are changing the focus of the bill by raising expectations for the educational achievement for all students, especially those with learning disabilities.

States under the legislation must establish goals for the performance of children with disabilities and develop indicators to judge their progress. A child's individualized educational program, otherwise known as an IEP, will focus on meaningful and measurable annual goals.

Children's IEP teams will include, to the extent appropriate, their regular education teacher. Where localities or States use assessment instruments, children with disabilities will either be included in those assessments or be given alternate assessments to meet their needs. Educational accountability also means informing parents about the educational progress of their children.

Under the IDEA amendments of 1997, parents of children with disabilities will be informed about the educational progress of their children as often as parents of children without disabilities. But even more fundamental than that, parents will be assured the ability to participate in all IEP team decisions, including those related to the placement of their child and the development of the IEP itself. Parents will also be able to access all records relating to their child, including evaluations and recommendations based on those records.

The chairman mentioned the improvements that we are making in the area of mediation and school discipline policies. I also mentioned that this bill will ensure that teachers have the tools to teach all children. Specifically, the bill will shift decisions on the expenditure of Federal training funds from the Federal Government to States and localities. That change will mean more general and special education teachers receiving the in-service training that they need instead of preservice training for special educators that universities desire. So we are shifting the focus more again to staff development and in-service training rather than teacher education in the colleges and universities.

Finally, I would like to mention two other areas that have required attention in the bill. One is the support for charter schools. First, charter schools that are recognized or chartered as their own local education agency, LEA, may opt to be merged into larger LEAs unless the State law specifically prevents this.

Second, non-LEA charter schools, public choice schools, must receive IDEA funds in the same manner as other schools in the same LEA. Third, charter schools are eligible for State discretionary program grant funds under the amendments.

I am also pleased, Mr. Speaker, to report that the bill clarifies, this is a very important point, particularly to my home State of California, it clarifies how services are to be provided to individuals in adult prisons who have been tried and convicted as adults.

A State may now delegate its obligation to oversee prison education to the prison system or the State adult correctional department. Standards relating to IDEA services, placement, and paperwork may also be relaxed to acknowledge the unique security requirements of the prison environment. This bill also allows States, at their discretion, to deny services for adult prisoners while forfeiting only the pro rata share of Federal funding for that small segment of the total IDEA eligible population.

So if this bill becomes law and California decides to deny services to adult prison inmates, the U.S. Department of Education can only reduce California's total Federal allocation by a small percentage instead of withholding the entire allocation, as the department is currently threatening to do.

As the chairman said, this bill represents an unprecedented bipartisan, bicameral effort, bringing together folks on all sides of this issue. I too want to salute the staff for their many, many hours of hard work and say, Mr. Speaker, in conclusion, that this is a bill we can be very proud of. It is a good bill for students with disabilities, their parents, teachers, principals, and school board members. I urge my colleagues to support H.R. 5 today.

Mr. CLAY. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. MARTINEZ].

(Mr. MARTINEZ asked and was given permission to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Speaker, I thank the gentleman from Missouri for yielding the time.

Mr. Speaker, I am extremely pleased to join with the Members on the floor today on both sides of the aisle in supporting this important and historic piece of legislation, historic because of the cooperation of all parties involved. This reauthorization is the product of over 2 years of work. But unlike the past 2 years, the most recent 2½ months of negotiations were bipartisan. As has been said before, these negotiations were aimed at maintaining the safeguards provided in current law and making modifications where the last 22 years has shown the need for change.

The discussions between House and Senate Democrats and Republicans and the administration began with current law as its starting point. Careful consideration was given to the provisions of the current statute and, where necessary, it was amended to reflect the current difficulties in providing children with disabilities a free and appropriate public education.

Since this law is an extremely important civil rights initiative, I can assure my colleagues that the test used to modify current law was extremely high. This bill before us today makes several much needed changes to current law.

Included in this reauthorization are an affirmative statement barring the cessation of educational services for children with disabilities; provisions requiring that alternative educational settings be designed to allow the child to progress in the general education curriculum; and mediation which is voluntary with respect to the participation of both schools, parents and all those involved. Also included in this bill is the maintenance of high personnel standards, and improved enforcement provisions designed to give the Department of Education and the States the ability to require proper implementation of the act.

Specifically, this bill makes several significant changes to current law, including a change in the Federal funding formula from one directed by child count to a formula based on population and poverty. I want to stress that no one should view this change in Federal formula to reflect the lack of need to identify children with disabilities.

Under the act, States and localities will still be charged with identifying children with disabilities and providing proper educational and related services. In addition, the bill also makes changes regarding the mandate that States serve juveniles in adult correctional facilities.

While the bill before us today provides several exemptions for serving disabled children in adult correction facilities, States will still be required to serve those who had an individualized education program in their last

educational placement. Members need to understand that disabled children do not often go straight from school to jail. However, the high dropout rate of children with disabilities often lead to these individuals encountering our justice system.

Fortunately, the provisions in this bill will ensure that those children who drop out and then get into difficulties with our justice system will continue to be served in adult correctional facilities. Like those who have gone before me, I want to thank the Members that have worked on this bill: the chairmen, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from California [Mr. RIGGS], the ranking member, the gentleman from Missouri [Mr. CLAY], the gentleman from California [Mr. MILLER], the gentleman from Missouri [Mr. KILDEE], the gentleman from Virginia [Mr. SCOTT], the gentleman from Delaware [Mr. CASTLE], and the gentleman from South Carolina [Mr. GRAHAM].

The contributions of these Members and their staffs to this measure were essential to creating its carefully balanced nature. The staff in particular worked long into the night and on weekends, and this effort should not go unnoticed.

In total, Members need to remember this measure is a carefully crafted compromise that means that both sides have to negotiate with the aim of finding a middle ground upon which we could agree. This bill is reflective of this throughout the provisions it contains because it contains provisions from both sides of the aisle.

While the bill before us provides several exemptions for serving disabled children at adult correctional facilities, States will still be required to serve those individuals who had individualized education programs in the last educational placement.

Mr. Speaker, this bill is one that deserves the merit and support of all the Members of Congress, and I urge all my colleagues to support this bill.

Mr. RIGGS. Mr. Speaker, I yield 2½ minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding. The Individuals with Disability Act has been in existence since 1975 to ensure that all children have access to a free and appropriate public education.

Prior to the enactment of IDEA, disabled children were often denied adequate public education. This legislation is critically important to millions of disabled children in America, not to mention their families, their friends, and their teachers. This law, however, has had unintended and costly consequences.

For example, it has resulted in children being labeled as disabled when they were not. It has resulted in school districts unnecessarily paying expensive private school tuition for children. It has resulted in cases where lawyers have gamed the system to the detriment of schools and children. It has resulted in unsafe schools where teachers and administrators cannot discipline or remove violent disabled students.

While this consensus bill does not contain everything I would like, I give it my strong endorsement. It contains a number of important reforms that address some of current law's unintended and costly consequences. To save Members the trouble of reading this 100-plus page bill and pulling out specific reforms themselves, I have compiled the following top 10 list of reasons to support the bill, and I would deliver it David Letterman style:

No. 10. This bill encourages use of mediation, promoting cost-effective resolution of conflicts.

No. 9. This bill makes it harder for parents to unilaterally place a child in elite private schools at public taxpayer expense, lowering costs to local school districts.

No. 8. This bill sends more money to local schools, alleviating their financial burdens.

No. 7. This bill modifies attorneys' fees, reducing litigation and eliminating the incentive that lawyers have to try and game the system.

No. 6. This bill makes changes to the formula, reducing incentives to overidentify children.

No. 5. This bill prevents the identification of children as disabled if they actually have reading problems instead, also reducing overidentification of children with disabilities.

No. 4. This bill eliminates the two-track disciplinary system in schools, making schools safer and more conducive to learning.

No. 3. This bill gives parents access to more information, empowering parents to become more involved in their child's education.

No. 2. This bill reduces paperwork requirements, lessening the amount of time wasted filling out mind-numbing forms.

No. 1. This bill protects the rights of disabled children to receive a free, appropriate, public school education, assisting them in their efforts to become productive and fulfilled adults.

□ 1445

The committee had an important opportunity to approve IDEA and build on its previous successes, and it worked in a bipartisan manner to achieve this goal. I want to commend the committee leadership and staff for its excellent work in drafting this bill. I urge my colleagues to give this bill their support.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me the time.

I am pleased to join my colleagues in both parties today in support of this remarkable achievement on behalf of children with disabilities and their families. I have always believed that it is an honor and a privilege to serve in Congress. I believed that 23 years ago when I was one of the original coauthors of this legislation, and I believe that today as we seek to revise this legislation to make it meet the needs of both our children and the school districts which educate them.

We had some very serious disagreements when we started this process two years ago and at that time we had several critical points that prevented us from coming together. I believed then and still believe that all children regardless of the nature or severity of their disability must be guaranteed a free and appropriate education and that no child should be denied an education. I believed then and still believe that the treatment of children with disabilities should be guided by what we know about the nature of the child's disability and its effect on his or her behavior. I believed then and still believe that parents are entitled to pursue all legal avenues available for them to ensure that the child is treated fairly. Unfortunately, some have argued for provisions which would have curtailed or severely diminished these rights. I am pleased that the bill before us maintains the fundamental rights we established in that groundbreaking law 23 years ago.

This progress was not easy. We had to overcome some real and difficult disagreements. Those of us who believed the rights of the children and parents were going to suffer were able to work with our colleagues in Congress who saw the issue differently and were able to agree that the rights should be protected. What we strove to achieve and what I believe we accomplished is a bill that protects the rights of children with disabilities and at the same time fosters cooperation between parents, teachers, school boards, administrators, and State and local agencies to help ensure that each recognizes their responsibilities and that each must make a commitment to work collaboratively to serve the best interests of all children.

Mr. Speaker, during our deliberations on this act, I received in the mail a letter from an old friend of mine, retired Superior Court Judge Robert J. Cooney, enclosing a book written by his son Peter describing what life was like for a child with Down's syndrome and for that child as he becomes an adult and seeks his place in American society. Over the years I have had the opportunity to watch Peter grow as he progressed through school, participated in the Special Olympics and achieved greater and greater independence.

Peter makes it clear in his book the importance of family and available resources. He says it is the love of parents and others that make a person special. We need help sometimes. Parents and teachers and counselors should help us when we need their help,

but do not do too much for us. Some counselors need to think of us as special. Part of their job is helping us become independent.

Peter is now 32 years old, lives in a residential facility, and works in the food service business at Cosumnes River College in Sacramento when he is not attending his book signings.

Mr. Speaker, this legislation is about empowering parents and students to be able to get the best education they can so that, like Peter, they will have a chance to participate fully in American society.

Before this law, Mr. Speaker, was on the books more than a million children with disabilities were not allowed to be educated. This rewrite makes sure that they continue to have those rights.

Mr. GOODLING. Mr. Speaker, I yield 1 minute the gentleman from California [Mr. MCKEON], subcommittee chairman.

Mr. MCKEON. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise today in support of H.R. 5, the Individuals with Disabilities Education Amendments Act. This legislation is a result of several years work with input from individuals and organizations representing the disabled, the education community, and parents. The outcome of this great effort is legislation that will substantially improve the current system of education for the disabled. In fact, this is the first major overhaul of the IDEA legislation in over 20 years. I commend the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. RIGGS] and all the Members involved in this vast undertaking.

H.R. 5 contains key reforms which increase parent participation, better connect students to the regular curriculum, provide support for the unique needs of individual students, provide more dollars to the classroom, reduce the costs of litigation, and reduce paperwork and process costs. There is no question these reforms will create a better system. I ask all to support the passage of this bill.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I rise to join my colleagues in strong support of H.R. 5, the amendments to the Individuals with Disabilities Education Act, and I want to thank the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. RIGGS], the gentleman from Missouri [Mr. CLAY], and the gentleman from California [Mr. MARTINEZ], ranking Members, and the leadership of the Senate for their leadership in crafting this truly remarkable bill. This legislation is extraordinary, not only because of its bipartisan bicameral and administration support, but also because it improves educational opportunities for children with disabilities.

With the enactment of the Individuals with Disabilities Education Act, twenty-two years ago, Congress recognized that 3.5 million of the children with disabilities in the United States were not receiving appropriate educational services and more than a million children were excluded from school altogether.

Today Congress not only reaffirms our commitment to education generally, but we are also reaffirming our commitment to ensuring that children with disabilities receive a free and appropriate education.

While some may argue that the price is too high, we know that our failure to provide appropriate education to any child will cost us even more in the long run and we know that children with disabilities who do not complete their education are less likely to be employed, more likely to rely on public assistance, and substantially more likely to be involved in crime than those others who complete high school. While the same can be said for the outcomes of children without disabilities, research demonstrates that these correlations are even stronger for children with disabilities.

Today we are here to support H.R. 5, because it significantly moves us towards fulfilling the promise we set 22 years ago, to provide a free and appropriate public education for all children with disabilities. So, Mr. Speaker, I would encourage all of my colleagues to support this remarkable legislation.

Mr. GOODLING. Mr. Speaker, I yield 1½ minutes to the gentleman from Nebraska [Mr. BARRETT], another member of the committee.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, ask any school official to identify the one program in their school in which costs have increased dramatically and that person will probably identify the special education program. Ask any parents of a disabled child the greatest source of their frustrations in the school system and they will probably point to the school's special education program.

This bill presents schools and parents with needed changes to Federal mandates that have gone underfunded. The bill would reduce paperwork and process costs without jeopardizing the educational services needed by our disabled children. It gives parents and schools the opportunity to seek mediation of their disputes before heading to costly court action.

But one particular provision will take an unprecedented step in Federal education law, by allowing local schools to actually cut back on their special education spending, once Federal appropriations reach $4.1 billion, which is $1 billion more than the current appropriations. I think it is proper to allow schools to relieve themselves somewhat from the burden of shouldering the cost of an underfunded Federal mandate. As Federal appropriations will be used to help supplement local spending, disabled students should not experience a decrease in their services.

I want to express my deep appreciation to the staff and to the subcommittee chairman, the gentleman from California [Mr. RIGGS] and to the chairman, the gentleman from Pennsylvania [Mr. GOODLING], and to the majority leader for crafting a bill that will provide relief to schools and parents and maintain our commitment to the educational services needed by our disabled children.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in strong support of H.R. 5. As someone that has learning disabilities, I knew what it was like to grow up and not have the educational opportunities. Luckily, my son was able to go to school and at that time they dealt with learning disabilities. It was during that time as he went to school I learned how to read, I learned how to study.

What this bill does is give children hope, certainly, but it gives them an opportunity to go out in the work field. The most important thing, though, it does allow the children to have self-esteem, and I think that is the most important thing.

I stand here because I am a Member of Congress now. I want the children out there to know, even though you have learning disabilities, you have a chance to learn and certainly you can do anything with your life that you want to.

I am pleased that H.R. 5 addresses concerns that my constituents have raised. It provides financial relief to school districts that struggle with the high cost of educating students with disabilities. It also addresses the issues of transportation training, which ensures that students have access to education and to jobs later in life.

Most of all, I am pleased that this bill is the product of bipartisan process. Educating children with disabilities is not a Democratic or a Republican issue, but a priority for all of us that must be addressed. It has been a pleasure working on this bill with both sides of the aisle and my colleagues. I think everyone did a wonderful job and everyone should be commended. But the bottom line is, we have remembered the children, and they are our best product for this country and they are the future of this country.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to gentleman from Georgia [Mr. DEAL], another member of the committee.

Mr. DEAL of Georgia. Mr. Speaker, I commend the gentleman and commend the subcommittee chairman and the staff for their hard work and to the minority for their hard work in the development of this piece of legislation.

I rise in support of H.R. 5. As someone who is involved with education through my wife's teaching in a middle school in my district, I think that I can share with my colleagues the same concern that most administrators and

teachers would say when they consider the Disabilities Act in terms of its impact on education. That specific area that I wish to touch on is the area of discipline.

It is indeed difficult to balance and achieve a reasonable balance between those who suffer from disabilities and those who are being educated along with them who are not under those disabilities. In the area of discipline, it is a difficult subject. This bill provides some necessary relief. Under this legislation, if a child is involved with drugs or with a weapon and is a disability child, it increases to 45 days the time in which they may be placed in an alternative teaching environment. It also increases to 45 days the time in which a child that is involved in a disciplinary problem in which danger to other children is involved.

Mr. Speaker, I commend the committee and thank the gentleman for yielding the time to me.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Speaker, I rise to commend my colleagues on the Committee on Education and the Workforce for their efforts to create this bipartisan piece of legislation. Reauthorization of the Individuals With Disabilities Education Act, H.R. 5, was a high priority for me in this session of Congress. I was proud to be a part of a bipartisan effort to ensure that 5.8 million disabled children receive an opportunity to succeed in the classroom.

For students and parents in Orange County, CA, in my hometown, this bill envisions high expectations and standards for children in special education by requiring that they participate in State and district assessments with appropriate accommodations where necessary.

H.R. 5 would expand the authority of school officials to protect the safety of all of our children in the classroom. In addition, the bill will allow school districts to get financial relief through new cost sharing provisions and the reduction of paperwork required from teachers, from school districts, and from States.

□ 1500

I urge my colleagues to support this critical piece of legislation because it affirms that educational services will not be terminated for any child with a disability.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, this bill is a monumental bill. My colleagues on the other side, the gentleman from Missouri [Mr. CLAY], and the rest of them, and the gentleman from Michigan [Mr. KILDEE], we worked on this bill when I was chairman of the subcommittee.

If we look at the difficulty of getting a bill through, between parent groups and schools, what the committee has done is monumental. On one hand we have parents that are thrust into an environment they never planned on having with a special education child and they are bewildered. On the other side there are the immense costs to the schools. And to bring those two groups together, I applaud both sides of the aisle.

I think for the first time we have been able to enhance the amount of dollars and the services available to these children but, at the same time, giving the schools the flexibility that they need to handle the special education needs.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to compliment the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. RIGGS], the gentleman from Missouri [Mr. CLAY], the gentleman from California [Mr. MARTINEZ], and the gentleman from Michigan [Mr. KILDEE], and I want to thank them for including the language from my Braille Literacy Act that I submitted several years ago.

Just briefly, in 1968 there were 20,000 visually impaired students; 40 percent could read Braille, 45 percent could read large print. In 1993, there were 50,000 visually impaired students; fewer than 9 percent could read Braille, 27 percent could not read print, and, Congress, 40 percent of those visually impaired students could not read either or at all.

I want to thank my colleagues for including language from my bill, the Braille Literacy Rights for Blind Americans Act. I want to compliment Tom Anderson, a constituent from my district, for his efforts in this as well. It basically says in the case of a child who is blind or visually impaired, it provides for instruction in Braille and the use of Braille, and also to consider the communication needs of the child. In the case of a child who is deaf, hard of hearing, blind or communicatively disabled, consider the language and communication needs of the child.

I think we have done more with this bill than we may realize. I thank my colleagues for working with me and including language from my bill.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA], the gentleman from Ohio's partner on my side of the aisle and a former teacher.

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman for yielding me this time. I will speak quickly since I only have 1 minute.

I want to congratulate the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. RIGGS], and all the members of the Committee on Education and the Workforce for their hard work and perseverance.

This really is a historic bill. What has been done in terms of making it bicameral and bipartisan, it passed out of both the House and the Senate committees without one dissenting vote. It will continue to make it possible for millions of children and youth with disabilities to gain a meaningful education.

Before IDEA, the vast majority of children with disabilities were unserved and underserved. IDEA has created a future for these children with real opportunities and has been a real success in human terms. I can think of Cecilia Pauley in my district who had Down's syndrome. With the support of a loving family, she graduated from high school and is attending college. She could not have done this without IDEA.

The bill on the floor today will help other parents provide that kind of support for other children just like Cecilia. It encourages parents to be involved in their children's education, takes into consideration parental preferences and concerns in the development of an individualized education plan, which is guaranteed for every child in a special education program.

I am also pleased they worked out some of the problems we had last year in terms of providing for alternative settings so that students with disabilities who are expelled can continue their education. I just think this is a terrific bill and I ask the support of this entire body and congratulate all involved, Members and staff.

Mr. CLAY. Mr. Speaker, may I inquire as to how much time is left on both sides?

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Missouri [Mr. CLAY] has 3½ minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 3 minutes.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, I thank the gentleman for yielding me this time.

Today, Mr. Speaker, I rise in support of the reauthorization of the act, and I am very pleased this Congress has been able to develop a bipartisan bill. I am especially pleased that the territories and freely associated states were appropriately considered and included in the crafting of funding mechanisms.

Disabled students and their parents on Guam and in the other territories are as eager for access to quality education as their peers in the States, and they certainly need the same tools as their peers to succeed academically. Access to quality education and a chance to succeed is all our students want, whether they are disabled or not.

The reauthorization of IDEA will go a long way in providing this opportunity, and I am proud to support this very bipartisan effort. I want to congratulate Members and staffs on both sides of the aisle who have worked out a compromise on the inclusion of the

territories and the three freely associated states, the Republic of Palau, the Republic of the Marshall Islands and the Federated States of Micronesia, in this important legislation.

Sometimes it certainly seems to those of us in the islands that there are as many funding strategies as there are Federal programs, and this is especially true for us. The chairman may remember discussions I have had with him about this issue during the 104th Congress, and I thank him for his efforts in this regard.

H.R. 5 allows the territories to take advantage and participate in any increases in appropriations while providing funds for the freely associated states through a competition with the Pacific territories for the next 4 years. While I have continuing concerns about using a nongovernment entity as a broker of funds intended for areas in which there are some very complex relationships, I certainly support the intent of this funding.

I am informed that this mechanism will also be used as a model for future education and training legislation in an effort to clarify the patchwork nature of territorial funding.

I congratulate the chairman and ranking member on their successful bipartisan effort, and I urge my colleagues to approve H.R. 5 on behalf of our children, whether they are in urban centers or suburbs or rural areas, or what we sometimes think of as very faraway islands, especially in those islands, areas where specialized services are rare or simply unavailable.

Mr. GOODLING. Mr. Speaker, I yield myself the balance of my time, and I would close by merely again thanking all on both sides of the aisle for all their efforts to put together this bipartisan, bicameral bill, and all those from the outside who worked diligently to bring this about.

I should mention Sally Lovejoy on the staff, who has been at this legislation for 13 years. So we want to pay tribute to her. She is only 25, but she has been at the legislation for 13 years.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise to commend the House of Representatives on considering H.R. 5, a bill to reauthorize and reform the Individuals With Disabilities Act [IDEA]. This bill renews and strengthens our promise to children with disabilities and their families that they will receive an education equal to that of their peers.

While the original IDEA legislation was critical in opening up educational opportunities to disabled students and enhancing efforts to include them in classes with other students, this legislation continues the commitment of the previous Congress to address the issue of actually providing adequate resources to individual States in educating children with disabilities. Last year, the Appropriations Committee, of which I am a member, increased funding for IDEA by almost $800 million to $3.1 billion for fiscal year 1997, the most in IDEA's history. H.R. 5 authorizes a $1 billion increase for IDEA in fiscal year 1998 and, within 7 years, funding for the program increases to $11 billion.

This bill, if enacted, will also improve the way States, schools, teachers, and parents work together to provide better education for children with disabilities. The new IDEA reform legislation will help children with disabilities by focusing on their education, instead of process and bureaucracy. It will also give parents increased participation and give teachers the tolls they need to teach all children. Moreover, this bipartisan legislation fulfills a proper Federal responsibility of protecting individual rights by insuring that children with disabilities have an equal opportunity to learn and succeed.

Although there were a number of contentious issues involved while drafting H.R. 5, Chairman GOODLING did a tremendous job of leading a bipartisan efforts in working with the many organizations representing the concerns of individuals with disabilities, their families and teachers, as well as school administrators and nurses. Today's vote in support of the IDEA reauthorization is a testament to the bipartisan and overwhelming support of this House to the needs of children with disabilities.

Mr. CONDIT. Mr. Speaker, I rise today to alert you to my concerns with certain provisions contained in H.R. 5, the Individuals With Disabilities Act Amendments of 1997.

Specifically, I am opposed to the provisions in this bill that require States to provide special education services to disabled individuals aged 16 to 21 who are incarcerated. I have always been supportive of an all out effort to provide educators with the necessary resources to properly train and educate those with disabilities. For this reason, I must object to requiring States to spend their scare education resources to serve prisoners.

As you may be aware, both the Governor of California and California's legislative bodies have registered their disapproval of provisions mandating that the State provide special education services to convicted felons. While there may be prisoners who would benefit from such services, the States ought to be trusted to make this decision on their own. Equally disturbing is the provision allowing the Department of Education to penalize States who fail to comply with this requirement by withholding all special education money granted to a State.

Notwithstanding my objections to these provisions, the overall merits of H.R. 5 warrant my support at this time. The objectionable provisions must be revisited by Congress.

Chairman BILL GOODLING, Representative BILL CLAY, Representative FRANK RIGGS, and Representative MATTHEW MARTINEZ are to be commended for expediting this reauthorization process and I look forward to working with all of them to address the concerns raised by the State of California.

Mr. DUNCAN. Mr. Speaker, I rise in support of this legislation which makes some very important changes to the Individuals With Disabilities Education Act.

We need to do our very best in educating the young people in our country. In addition, I believe we especially need to help those with disabilities.

I admire the people who work very closely with these children on a daily basis. In fact, I would say that these are the people who, along with the parents, are most concerned with how this program is operating. They feel that too much money has been wasted in legal fees. Instead, they would like to see much more of the funding go directly to helping these special students. I agree.

A few years ago, I met with a school superintendent from my district, Allen Morgan, and one of his main concerns was the cost of legal fees associated with this program. As a result, on August 5, 1993, I introduced H.R. 2882, which would have reduced the amount of money school systems have to spend for attorney fees. Do you want the money spent on lawyers or on severely disabled students?

Under the legislation I introduced, State and local education agencies would not have had to pay attorney fees for preliminary administrative hearings and negotiations. This would have saved many millions of dollars across the country. However, it would still have allowed parents who prevailed in a civil action to be reimbursed for legal expenses. I am pleased to know that the authors of this bill have included similar language in this legislation.

The bill on the floor today will save direly needed funds for educating the disabled by reducing the amount of money spent on overly excessive attorney fees. I urge my colleagues to support this legislation which will help get more money to the children who need it the most.

Mrs. ROUKEMA. Mr. Speaker, I rise today to clarify some of the language in the Individuals With Disabilities Education Act that we are looking to enact into law today. This is a much needed piece of legislation which has been created with the participation and consideration of a large variety of interests. We should be proud of this historic moment.

The section I would like to clarify involves personnel standards. This section has some potentially unclear language, which I would like to make clear. When the bill refers to the qualified individual who must be making satisfactory progress toward completing applicable course work necessary to meet the standards described earlier in the legislation, it is referring to the standards that are consistent with State law applicable to the profession or discipline. This clarification is important to answer an confusion that may arise.

Mr. GOODE. Mr. Speaker, today, with reservations, I support H.R. 5, the Individuals With Disabilities Education Act Improvement Act of 1997.

Even before I came to Congress in January of this year, local school administrators and school board members from my home in Franklin County, VA, had alerted me to the grave fiscal dilemma they face in attempting to comply with IDEA. These local school officials and many of their colleagues in similar rural areas are finding it increasingly difficult to meet the needs of students with disabilities because of inadequate Federal funding and overly stringent Federal restrictions.

These local officials are sincere in their commitment to provide an education to every young person that they serve, whether that person is faced with a disability or not. They are, however, increasingly confronted with nearly impossible dilemmas as the costs of special education rapidly increase. With this bipartisan bill, we will give these dedicated local officials some relief and will begin to meet the commitment to the level of funding that Congress made to States and localities when IDEA was enacted.

There is one section of this bill that does trouble me. In some instances, a student may

engage in egregious misconduct that would result in expulsion except that such student is covered by IDEA. In those instances, I believe expulsion is merited and should be left to policies developed by the States and the localities. On February 5, 1997, the Circuit Court of Appeals for the Fourth Circuit ruled that the U.S. Department of Education was without authority to condition receipt by the Commonwealth of Virginia of IDEA funding on the continued provision of free education to disabled students who have been expelled or suspended long term for criminal or other serious misconduct unrelated to their disability. I agree that decisionmaking on these very case-specific instances should be left to localities and States and disagree with this aspect of this bill.

On the whole, however, this bill offers improvements and gives schools greater flexibility, promotes cost-sharing between State and local agencies and recognizes the role of teachers.

Mr. CUNNINGHAM. Mr. Speaker, I am proud to rise in support of H.R. 5, the IDEA Improvement Act. I am pleased to see it moving toward enactment, hopeful that continued improvements can be made, and thankful to those citizens, staff, and members who have made it possible.

The Individuals with Disabilities Education Act, or IDEA, is based on one principle: That children with disabilities deserve a fighting chance to achieve the American Dream. Since its enactment in the 1970's, this law has made education and opportunity available for millions of children with disabilities. Many of these Americans, who once would have been consigned to costly institutions for life, have used their education to sustain themselves and become contributing members of society. They are better for it, and the country is better, too.

But the law has not been perfect. Over time, cooperation in pursuit of education has gradually given way to divisive and costly litigation that usurps scarce resources from children's schooling. Congress and successive administrations have failed to keep their promise to fund 40 percent of States' costs to comply with IDEA and provide free, appropriate public education in the least restrictive environment, as the law requires. And the distribution of funds among the States has grown unfair and unequal, with some States receiving substantially more funding per school-age child than others.

In the 104th Congress, we pledged and worked to do better. And we did. I was privileged at the time to serve as chairman of the House Subcommittee on Early Childhood, Youth and Families. We assembled a historic coalition of citizen representatives of children with disabilities, educators, the administration, Republicans, and Democrats to develop an IDEA Improvement Act that we could all agree upon. We reported a bill out of subcommittee, to the full committee, to the House, and forwarded it to the Senate by voice vote. Unfortunately, the late-session crunch and latent divisions forestalled its enactment. Nevertheless, Congress recognized the progress we had made by providing an equally historic, first-time substantial increase in IDEA funding, some $4 billion total in fiscal year 1997, $700 million more than in fiscal year 1996.

Now, the 105th Congress is completing the work we began in the 104th Congress. Under the leadership of Education Committee Chairman BILL GOODLING, Early Childhood Subcommittee Chairman FRANK RIGGS, and the majority leader of the other body, we now have an IDEA Improvement Act that all sides agree is an improvement. It focuses anew on the education of children with disabilities. It improves schools' administration of special education. It assures that additional IDEA appropriations are distributed in a more equitable manner, freeing the Appropriations Committee on which I now serve to fund IDEA more robustly and responsibly. And it replaces litigation and division with mediation and a more cooperative process for resolving disputes.

Like the IDEA Improvement Act of the 104th Congress, this measure before us today is not perfect. H.R. 5 does not address the inequitable distribution of current IDEA funding. It does not give States enough relief from certain mandates, particularly those relating to IDEA-mandated educational services for convicts in jail. And it does not give schools and communities as much flexibility as I would prefer in implementing an educational program, and ensuring the fair conduct of disciplinary procedures. It is a product of compromise and a great deal of hard work and sacrifice from all parties. And I am glad to say that it is, on balance, a very good bill that will do well by our children and our schools.

Finally, I would like to publicly recognize a number of the people who made this measure possible. Chairmen GOODLING and RIGGS, and my former Early Childhood Subcommittee ranking member DALE KILDEE—now ranking on the Higher Education Subcommittee—have done yeoman's work in carrying this difficult task through. The Senate majority leader, and his chief of staff, David Hoppe, coordinated a months-long march of meetings between all parties to hammer out an agreeable bill, and they have done marvelously. And Jay Eagen, Sally Lovejoy, and Todd Jones of the Education and Workforce Committee staff deserve recognition for distinguished service on this issue on behalf of many Members of the Congress. I was privileged to work with all of them in the 104th Congress. Many others deserve special recognition, especially the families, special education students, teachers, school board members, and administrators who contributed their work and experience to this measure.

I urge Members to support H.R. 5. It goes to show that when we work together, we can get the job done.

Mr. PAUL. Mr. Speaker, I rise to oppose H.R. 5, the Individuals with Disabilities Reauthorization Act of 1997 [IDEA]. I oppose this bill as strong supporter of doing all possible to advance the education of persons with disabilities. However, I do not think that a huge bureaucracy is the best way to educate disabled children. Parents and local communities know their children so much better than any Federal bureaucrat, and they can do a better job of meeting a child's needs than we in Washington. There is no way that the unique needs of my grandchildren, and some young boy or girl in Los Angeles, CA or New York City can be educated by some sort of ''Cookie Cutter'' approach.

At a time when Congress should be returning power and funds to the States, IDEA increases Federal control over education. According to the Congressional Budget Office Federal expenditures on IDEA will reach over $20 billion by the year 2002. This flies in the face of many Members' public commitment to place limits on the scope of the Federal bureaucracy.

H.R. 5 imposes significant costs on State governments and localities. For example, the new bill requires one regular education teacher to take part in each individual education plan [IEP]. According to certain education experts, this could require as many as 10 to 15 teachers be present at each IEPO meeting. This bill also requires States to include disabled students in all statewide assessments by 1998 and develop alternatives for students unable to participate in the regular exams by the year 2000. According to the National Association of State Boards of Education [NASBE], this mandate will increase assessment costs by 12 percent.

NASBE's May 9 letter to Congress identifies several other provisions in H.R. 5 that will impose new financial burdens on the States. I ask that the letter be read into the RECORD.

As I see Members of Congress applaud the imposition of more mandates on States, I cannot help but think of a letter I received from the high school principal asking for some relief from Federal mandates imposed on her by laws like IDEA. I would ask all my colleagues to consider whether we are truly aiding education by imposing new mandates or just making it more difficult for hard-working, education professionals like this principal to properly educate our children?

The major Federal mandate in IDEA is that disabled children be educated in the least restrictive setting. In other words, this bill makes mainstreaming the Federal policy. Many children may thrive in a mainstream classroom environment, however, I worry that some children may be mainstreamed solely because school officials believe it is required by Federal law, even though the mainstream environment is not the most appropriate for that child.

On May 10, 1994, Dr. Mary Wagner Testified before the Education Committee that disabled children who are not placed in a mainstream classrooms graduate from high school at a much higher rate than disabled children who are mainstreamed. Dr. Wagner quite properly accused Congress of sacrificing children to ideology.

Mr. Speaker, it is time to stop sacrificing children on the alter of ideology. Every child is unique and special. Given the colossal failure of Washington's existing interference, it is clear that all children will be better off when we get Washington out of their classroom and out of their parents' pocketbooks. I therefore urge my colleagues to cast a vote for constitutionally limited government and genuine compassion by opposing H.R. 5.

NATIONAL ASSOCIATION OF
STATE BOARDS OF EDUCATION,
Alexandria, VA, May 9, 1997.

DEAR REPRESENTATIVE: The National Association of State Boards of Education (NASBE) is a private nonprofit association representing state and territorial boards of education. We are writing to express our opposition to the changes made to the state set-aside formula in the compromise agreement on the individuals with Disabilities Education Act (IDEA).

Under the new legislation, the state share is capped at the FY97 level, with all future increases equal to the rate of inflation or the federal appropriations increase—whichever is less. This new formula also applies to the state's 5% administration reserve. This

limit, especially as applied to state administration, will place severe burdens on already strained state education budgets and will result in an enormous federally unfunded mandate.

IDEA is a highly prescriptive law requiring vigilant state monitoring and evaluation to ensure disabled students are receiving all appropriate educational services. The new mandates will create even more administrative and oversight responsibilities for state education agencies (SEAs), while at the same time significantly decreasing the federal funds necessary to carry out such functions. Because of the artificial limits placed on the states' administrative share, the excess costs of administering the programs, distributing grants and ensuring local education agency (LEA) compliance with the law will be borne solely by the SEA.

In addition, the proposed legislation directs the states to implement the following new programs: (1) Include disabled students in all state-wide assessments by 1998 and to develop alternatives for students unable to participate in regular exams by the year 2000. (At the very least, this mandate will increase state assessment costs by 12%, the national average of disabled students in the general school population); (2) Establish and operate a mediation system for use by LEAs and parents; (3) Develop and implement state performance goals and indicators for disabled students.

The states are responsible for all of the costs incurred by creating and maintaining the above programs. The federal government is providing absolutely no new financial assistance to help offset these expenses.

The reduction of the state set-aside severely undermines the historic federal, state and local partnership and 20-year old cost-sharing arrangement that have worked so well in delivering a free, appropriate public education to disabled students. We urge you to amend the IDEA compromise agreement by allowing funding increases of up to 5% annually for state administration.

Sincerely,

BRENDA L. WELBURN,
Executive Director.

Mr. GILMAN. Mr. Speaker, I rise today in support of the Individuals With Disabilities Education Improvement Act, H.R. 5, and commend its sponsor, the distinguished chairman of the Committee on Education and the Workforce, Mr. GOODLING, and the chairman of the Subcommittee on Early Childhood, Youth and Families, Mr. RIGGS, for their diligent work in bringing this important bipartisan legislation to the floor.

This measure effectively incorporates numerous initiatives that have been proposed by educators and school board members in my district. This bill seeks to give the classroom teacher the ability to maintain adequate discipline with regard to special education students. While previous law prohibited a school from suspending or expelling a disabled student for more than 10 days, except in the situation where the student has brought a gun to school, this bill provides for removal to an alternative placement for students who bring weapons to school, bring illegal drugs to school, or illegally distribute drugs in schools, students who engage in assault or battery and students, who by proof of substantial evidence present a danger to himself or others. I believe that this bill effectively addresses that issue of classroom safety, while still maintaining protection for the students against arbitrary placement changes.

Furthermore, this measure requires States to make mediation available to school authorities and parents who disagree over a disabled student's educational plan, instead of forcing the parties to move their dispute into the court. It is our hope that an increase in the use of mediation will reduce the acrimony involved in these disputes and will save money that has in the past been spent on attorney fees. Furthermore, it is my hope that the new formula changes phased in over 10 years will reduce overidentification and promote the effective use of government resources.

Accordingly, Mr. Speaker, I urge my colleagues to support this worthy measure to reform our Nation's special education programs.

Mr. GOODLATTE. Mr. Speaker, I want to first congratulate the chairman on his dedication to this important issue and his hard work toward crafting a bill that will help schools improve the quality of education for students with disabilities.

This bill includes a number of provisions that I strongly support. It streamlines and consolidates the requirements that States must meet for individualized education plans, allows parents to participate in all IEP decisions, guarantees that parents have access to all records relating to their children, and includes a number of provisions to limit attorney's fees and reduce litigation.

While I support most of the provisions in this bill, I am deeply concerned that in an effort to reach a compromise with the administration, this bill includes language that tramples the rights of States and localities to ensure safety and discipline in their classrooms.

The bill includes a provision that effectively overturns a recent Federal Appeals Court decision allowing States to suspend or expel disabled students for criminal or other serious misconduct when the action is unrelated to their disability. The administration's policy, which not only exceeds the mandate of IDEA, sets a glaring double standard by establishing two discipline codes—one for disabled students and another for nondisabled students. Including this provision in the bill ties the hands of States and localities when it comes to effectively disciplining students.

While I believe that the overall bill is good for disabled students, good for parents and teachers, and good for the American taxpayers, it would have been a great deal better had this provision not been included. With that, I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 5, as amended.

The question was taken.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONCURRING IN SENATE AMENDMENT TO H.R. 914, TECHNICAL CORRECTIONS IN HIGHER EDUCATION ACT, WITH AMENDMENTS

Mr. MCKEON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 145) providing for the concurrence of the House with the amendment of the Senate to H.R. 914, with amendments.

The Clerk read as follows:

H. RES. 145

Resolved, That upon the adoption of this resolution the bill (H.R. 914), to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures, shall be considered to have been taken from the Speaker's table to the end that the Senate amendments thereto be, and the same are hereby, agreed to with amendments as follows:

Insert before section 1 the following:

TITLE I—TECHNICAL AMENDMENTS

Redesignate sections 1 through 5 as sections 101 through 105, and at the end of the bill add the following:

SEC. 106. PAYMENTS RELATING TO FEDERAL PROPERTY.

Section 8002(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(i)) is amended to read as follows:

''(i) PRIORITY PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(1)(B), and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

''(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency described in paragraph (2); and

''(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.

''(2) LOCAL EDUCATIONAL AGENCY DESCRIBED.—A local educational agency described in this paragraph is a local educational agency that—

''(A) received a payment under this section for fiscal year 1996;

''(B) serves a school district that contains all or a portion of a United States military academy;

''(C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

''(D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.''.

TITLE II—COST OF HIGHER EDUCATION REVIEW

SEC. 201. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Cost of Higher Education Review Act of 1997''.

(b) FINDINGS.—The Congress finds the following:

(1) According to a report issued by the General Accounting Office, tuition at 4-year public colleges and universities increased 234 percent from school year 1980–1981 through school year 1994–1995, while median household income rose 82 percent and the cost of consumer goods as measured by the Consumer Price Index rose 74 percent over the same time period.

(2) A 1995 survey of college freshmen found that concern about college affordability was the highest it has been in the last 30 years.

(3) Paying for a college education now ranks as one of the most costly investments for American families.

SEC. 202. ESTABLISHMENT OF NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION.

There is established a Commission to be known as the ''National Commission on the Cost of Higher Education'' (hereafter in this Act referred to as the ''Commission'').

SEC. 203. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(1) Two individuals shall be appointed by the Speaker of the House.

(2) One individual shall be appointed by the Minority Leader of the House.

(3) Two individuals shall be appointed by the Majority Leader of the Senate.

(4) One individual shall be appointed by the Minority Leader of the Senate.

(5) One individual shall be appointed by the Secretary of Education.

(b) ADDITIONAL QUALIFICATIONS.—Each of the individuals appointed under subsection (a) shall be an individual with expertise and experience in higher education finance (including the financing of State institutions of higher education), Federal financial aid programs, education economics research, public or private higher education administration, or business executives who have managed successful cost reduction programs.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a Chairperson and a Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson will assume the duties of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) APPOINTMENTS.—All appointments under subsection (a) shall be made within 30 days after the date of enactment of this Act. In the event that an officer authorized to make an appointment under subsection (a) has not made such appointment within such 30 days, the appointment may be made for such officer as follows:

(1) The Chairman of the Committee on Education and the Workforce may act under such subsection for the Speaker of the House of Representatives.

(2) The Ranking Minority Member of the Committee on Education and the Workforce may act under such subsection for the Minority Leader of the House of Representatives.

(3) The Chairman of the Committee on Labor and Human Resources may act under such subsection for the Majority Leader of the Senate.

(4) The Ranking Minority Member of the Committee on Labor and Human Resources may act under such subsection for the Minority Leader of the Senate.

(f) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

(i) INITIAL MEETING.—The initial meeting of the Commission shall occur within 40 days after the date of enactment of this Act.

SEC. 204. FUNCTIONS OF COMMISSION.

(a) SPECIFIC FINDINGS AND RECOMMENDATIONS.—The Commission shall study and make findings and specific recommendations regarding the following:

(1) The increase in tuition compared with other commodities and services.

(2) Innovative methods of reducing or stabilizing tuition.

(3) Trends in college and university administrative costs, including administrative staffing, ratio of administrative staff to instructors, ratio of administrative staff to students, remuneration of administrative staff, and remuneration of college and university presidents or chancellors.

(4) Trends in (A) faculty workload and remuneration (including the use of adjunct faculty), (B) faculty-to-student ratios, (C) number of hours spent in the classroom by faculty, and (D) tenure practices, and the impact of such trends on tuition.

(5) Trends in (A) the construction and renovation of academic and other collegiate facilities, and (B) the modernization of facilities to access and utilize new technologies, and the impact of such trends on tuition.

(6) The extent to which increases in institutional financial aid and tuition discounting have affected tuition increases, including the demographics of students receiving such aid, the extent to which such aid is provided to students with limited need in order to attract such students to particular institutions or major fields of study, and the extent to which Federal financial aid, including loan aid, has been used to offset such increases.

(7) The extent to which Federal, State, and local laws, regulations, or other mandates contribute to increasing tuition, and recommendations on reducing those mandates.

(8) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(9) The extent to which student financial aid programs have contributed to changes in tuition.

(10) Trends in State fiscal policies that have affected college costs.

(11) The adequacy of existing Federal and State financial aid programs in meeting the costs of attending colleges and universities.

(12) Other related topics determined to be appropriate by the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall submit to the President and to the Congress, not later than 120 days after the date of the first meeting of the Commission, a report which shall contain a detailed statement of the findings and conclusions of the Commission, including the Commission's recommendations for administrative and legislative action that the Commission considers advisable.

(2) MAJORITY VOTE REQUIRED FOR RECOMMENDATIONS.—Any recommendation described in paragraph (1) shall be made by the Commission to the President and to the Congress only if such recommendation is adopted by a majority vote of the members of the Commission who are present and voting.

(3) EVALUATION OF DIFFERENT CIRCUMSTANCES.—In making any findings under subsection (a) of this section, the Commission shall take into account differences between public and private colleges and universities, the length of the academic program, the size of the institution's student population, and the availability of the institution's resources, including the size of the institution's endowment.

SEC. 205. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish the Commission's procedures and to govern the manner of the Commission's operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) FACILITIES AND SERVICES, PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the Commission's duties under this Act.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the Commission's duties under this Act.

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, and to such extent and in such amounts as are provided in appropriation Acts, the Chairperson of the Commission shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for level IV of the Executive Schedule under section 5332 of such title.

SEC. 206. EXPENSES OF COMMISSION.

There are authorized to be appropriated to pay any expenses of the Commission such

sums as may be necessary not to exceed $650,000. Any sums appropriated for such purposes are authorized to remain available until expended, or until one year after the termination of the Commission pursuant to section 207, whichever occurs first.

SEC. 207. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 60 days after the date on which the Commission is required to submit its final report in accordance with section 204(b).

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from California [Mr. MCKEON] and the gentleman from Michigan [Mr. KILDEE] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 914. H.R. 914 was originally passed by the House of Representatives on March 11, 1997, under suspension of the rules. It made two simple amendments to the student right to know provisions of the Higher Education Act. These amendments changed the date for which schools had to report graduation rates in order to lessen the reporting requirements faced by schools while improving the quality of information that students would receive.

On April 16, 1997, the Senate passed H.R. 914 after adding impact aid technical amendments to the legislation. Those amendments would: extend the deadline for filing for equalized States which deduct impact aid revenue in their computation of general State aid for education; extend the hold harmless for section 8002 payments for property to cover fiscal years 1997 through the year 2000; and add expenditure data as a factor to be considered when determining a school district's financial profile under the section of the law, 8003(f), dealing with heavily impacted school districts.

Today, we are again considering H.R. 914 under suspension of the rules. The legislation before us today includes the impact aid technical amendments passed by the other body and one additional impact aid technical amendment added by the House to clarify that appropriations over and above the amount appropriated for section 8002 for fiscal year 1997 are to be distributed to all eligible school districts. However, it also includes one more very important piece of legislation. H.R. 914, as it is before us today, includes the Cost of Higher Education Review Act of 1997. I would like to focus my remarks on these very important provisions.

In today's technology and information-based economy, getting a high quality postsecondary education is more important than ever. For many Americans it is the key to the American dream.

Let me tell my colleagues how I see higher education in the future. I would hope that men and women, young and old, will have access to postsecondary education when they need it. Some would go to college for undergraduate or graduate degrees. Others would choose to go to school or go back to school for much shorter periods of time in order to improve or upgrade their schools for a better job and a better future. Many could just take a class or two from home over the Internet. But I want to see every American who so chooses have the option of receiving a quality education at an affordable price.

As my colleagues know, the Subcommittee on Postsecondary Education, Training and Life-Long Learning has already begun the process of reauthorizing the Higher Education Act, which will provide $35 billion in student financial aid this year alone. We have been holding hearings around the country on the reauthorization of the Higher Education Act, and a consistent question we get from students and parents is why is college so expensive and why are college prices rising so quickly.

However, my interest in higher education goes well beyond the role I play as chairman of that subcommittee. I am a parent and a grandparent, and I know students who are pursuing or will pursue a postsecondary education. I have constituents, students and parents, who are worried about their abilities to afford a college education.

Historically, the cost of getting a postsecondary education has increased at a rate slightly above the cost of living. However, a recent General Accounting Office report tells us that over the last 15 years the price of attending a 4-year public college has increased over 234 percent while the median household income has risen by only 82 percent and the CPI only 74 percent. A recent survey of college freshmen found that concern over college affordability is at a 30-year high. Parents and students across the country are understandably worried about the rising cost of higher education.

In order to control the cost of obtaining a postsecondary education, parents, students, and policymakers must work together with colleges and universities to slow tuition inflation, or for many Americans college will become unaffordable.

That is not to say that there are not affordable schools. There are some affordable schools and there are college presidents who are committed to keeping costs low. There are schools that are trying very innovative things to reduce tuition prices.

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However, the trend in higher education pricing is truly alarming. This trend is especially alarming in that it only seems to apply to higher education. There are many endeavors and many businesses that must keep pace with changing technologies and Federal regulations. However, in order to stay affordable to their customers and stay competitive in the market, they manage to hold cost increases to a reasonable level.

The Cost of Higher Education Review Act contained in H.R. 914 will establish a commission on the cost of higher education. This commission will have a very short life span. Over a 4-month period the commission will study the reasons why tuitions have risen so quickly and dramatically, and report on what schools, the administration and the Congress can do to stabilize or reduce tuitions.

There is a great deal of conflicting information around the country with respect to college costs. This commission will be comprised of seven individuals with expertise in business and business cost reduction programs, economics, and education administration. Their job will be to analyze this information and give us a true picture of why costs continue to outpace inflation and what can be done to stop this trend.

Members of the commission will be appointed by the House and Senate leadership and the Secretary of Education. The commission will have 4 months to perform its duties. The commission will then sunset within 2 months of finishing its job. The cost for this commission will not exceed $650,000.

Mr. Speaker, as I noted earlier, this year we will be reauthorizing the Higher Education Act, which will provide $35 billion this year alone in Federal student financial aid. As we go through this process, our goals will be to make higher education more affordable, simplify the student aid system, and stress academic quality.

In order to update and improve the Higher Education Act in a way that truly helps parents and students, a thorough understanding of tuition trends will be essential. The Cost of Higher Education Review Act will give us that information and shed light on a topic which is of utmost concern to our constituents. I urge my colleagues to join me in this effort, and I urge a ''yes'' vote on H.R. 914.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the hearing on the costs of higher education, I expressed deep concern over the rising costs of a college education. At that time I also expressed concern that we avoid Federal intrusion into the day-to-day operations of American higher education. As I see it, our job is to work with our colleges as they, and not we, seek to bring costs under control. I do not believe that the American people want the Federal Government to step into the management of our colleges and universities, and I for one would oppose any such move.

I voted to report this legislation out of committee and shall vote for its passage today. I do so, however, with both concerns and misgivings.

I believe, for example, that the executive branch should have equal representation on the commission. Examining the costs of a college education is not a partisan issue, and I fear that not giving the executive branch equal participation gives the commission a possible partisan tinge it should not have.

I also believe that we are asking the commission to issue a final report in too short a time. The issues to be addressed by the commission are very complex, and I am not at all sure that we can get the substantive answers we are seeking in a 4-month period.

Despite these and other reservations, Mr. Speaker, I am willing to give the gentleman from California [Mr. MCKEON], my very good friend, and chairman of the Subcommittee on Postsecondary Education, Training and Life-Long Learning, the benefit of the doubt, and not to oppose adding this legislation to H.R. 914.

Mr. Speaker, I reserve the balance of my time.

Mr. McKEON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the full committee.

Mr. GOODLING. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of H.R. 914, which makes a technical correction to the student right-to-know provisions of the Higher Education Act, includes technical amendments to the impact aid program, and authorizes the timely creation of a commission to review the costs of higher education.

The House passed the technical amendments to the student right-to-know provision of the Higher Education Act in March. The Senate then added several amendments dealing with impact aid funds.

The first provision amends the provisions of the impact aid law dealing with equalized States. Current law requires such States to file notices of intent to deduct impact aid revenue in their computation of general State aid by March 3, 1997. Several States missed the filing deadline, and the Department of Education does not have the authority to waive the statutory filing deadline. This amendment provides such authority, but I would caution States, all 50, not to miss the deadline again. It is entirely too expensive for States to take that risk.

The second amendment extends the hold-harmless provision for section 8002, Federal property payments, to cover fiscal years 1997 through 2000. Due to a formula change in the 1994 Improving America's Schools Act, the Department of Education has not been able to determine exact payments. Extending the hold-harmless at the fiscal year 1997 level through fiscal year 2000 will allow this issue to be reviewed as part of the next review of the Elementary and Secondary Education Act.

The third amendment adds an important factor to a school district's financial profile for purposes of payments to heavily impacted school districts. During the 104th Congress, we modified this section to allow schools to use data from 2 years prior instead of relying on current year data which delayed payments for an extended period of time. However, in revising this section, the use of expenditure data was not included accidentally. This provision simply adds that expenditure data to the financial pool.

These are the impact aid changes contained in the Senate bill. One additional technical amendment has been added, and this amendment clarifies that funds over and above the amount necessary to ensure that the Highland Falls School District receives at least one-half of the amount they would receive under section 8002 if the program was fully funded is to be distributed to all eligible school districts.

In addition to the impact aid amendments, we have added language from H.R. 1511 which the Committee on Education and the Workforce reported last week. The language we have included authorizes the creation of a commission to review college costs. This bipartisan effort reflects a common goal of Members of this body. We want college to be affordable for students and families across the country.

The only answer we keep getting from the college presidents and university presidents is that they have to increase their costs because they keep giving more money of their own to students in need. That is called sticker price and discount price. I do not know what role we play in that on the Federal level. All I know is that when one college eliminated their discounted price and stuck to their sticker price, they lowered tuition for everybody, and in doing that, they had more students than they had room for. I think all colleges can take a hint.

I am happy to see that we are finding that they are getting costs under control. I believe they are down closer to 6 and 7 percent. I think they can still do better.

Mrs. KELLY. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentlewoman from New York.

Mrs. KELLY. Mr. Speaker, could the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the full committee, clarify the intent of section 106? Am I correct in understanding that this section merely clarifies that the difference in funding for section 8002 between the amount appropriated in fiscal years 1996 and 1997 will first be used to pay 50 percent of the maximum amount for any school district described in paragraph 2 of section 8002(i), and that any remaining funds plus any additional amounts appropriated for fiscal year 1998 and succeeding years will then be distributed to increase payments to other school districts which qualify under 8002?

Mr. GOODLING. The gentlewoman is correct. Section 106 of the bill amends section 8002(i) of the Elementary and Secondary Education Act to clarify that, beginning in the fiscal year 1997, priority payments for amounts appropriated above the appropriated level for section 8002 for 1996 shall be made to a local education agency which meets certain specified criteria, not to exceed 50 percent of their maximum payment. The Secretary shall then use any funds in excess of this amount, plus any additional amounts appropriated for fiscal year 1998 and succeeding years to increase payments to each eligible school educational agency under this section.

Mrs. KELLY. This section will in no way result in any reductions in funding to the local education agency described in paragraph 2 of section 8002(i)?

Mr. GOODLING. The gentlewoman is correct. The only way such payments would be reduced would be if appropriations fell to or below the amount appropriated in 1996.

Mrs. KELLY. With that understanding, I thank the gentleman.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 914 and in particular the inclusion of H.R. 1511 which establishes a commission to study the costs of higher education.

As pointed out by the chairman, a recently released GAO report found that the price of a 4-year public institution has increased by 234 percent in the past 15 years. I urge Members to support this commission so that as a body we are well informed about the many factors which contribute to the increased price of college.

As a former college administrator, I can tell my colleagues that the issues surrounding the price of tuition are complex and establishing a commission dedicated to studying this issue will be very helpful. More importantly, this commission will report back to Congress and the administration to provide suggestions on how to stabilize tuition rates. Many proposals have come forth from this Congress to help families pay for these increasing costs, but few if any have attempted to deal directly with the institutions themselves. It is at the institutional level rather than in the Tax Code that I believe this problem will be successfully addressed. Extravagant tuition increases become not only an economic problem for individual families but a social problem for entire communities and our Nation as a whole. When tuition increases as drastically as it has, more and more students are left behind, students who otherwise would be attending college. If the current trend continues, only the very wealthy will be able to afford college and lower income families will not have the educational tools with which to compete in the work force of the 21st century, and we will all suffer. The commission will cost relatively little and provide valuable information which will help us address this growing

problem. I urge my colleagues to support the bill.

As a former college administrator, I can help explain these tuition costs as needed and justifiable. As a parent, I feel helpless on the onslaught of tuition increases beyond inflation. But as Members of Congress, we must respond intelligently to this situation which impacts on our growth, and this legislation does exactly that.

Mr. MCKEON. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BARRETT], a member of the committee.

Mr. BARRETT of Nebraska. I thank the gentleman for yielding me this time.

Mr. Speaker, while this bill makes several technical corrections to already existing law, I want to speak to one provision that creates the National Commission on the Cost of Higher Education. Normally I am not particularly thrilled with the establishment of new commissions since they tend to take a little too long to complete their work and very often their recommendations have little or no impact on our deliberations. However, in this case, the $650,000 expenditure of already appropriated funds for this commission and the fact that it must provide Congress with its recommendations within 4 months means that Congress will have an opportunity to review the recommendations during our consideration of the Higher Education Act. As the gentleman from California [Mr. MCKEON], the chairman, has already mentioned, since 1980 the cost of 4-year public colleges and universities has increased by 234 percent and the tuition at private 4-year institutions is already increasing at a rate of about 8 percent annually. Yet the causes for these increased tuition costs and whether the Federal policies or programs contribute are very complex and they deserve study. I recommend the study and I recommend the adoption of H.R. 914.

Mr. MCKEON. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL], a member of the committee.

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend the gentleman and the staff for their fine work in the bringing of this bill to the floor.

I, too, like the speaker who preceded me, am not particularly fond of commissions, but this one is of short duration, 4 months, and will address some very serious issues that we need to be concerned about.

We are spending $35 billion in Federal aid this year for student aid programs, but we also know that for many students who are graduating that the cost of loan repayments is a significant burden that they will face in the near future. This commission has some important questions to answer: What is the role of the Federal Government? Do we have a role? What can we do? Are there regulatory reforms that are called for that will slow down or reduce the cost of rising tuition?

These are the kinds of questions that deserve our answers. These are the kinds of questions that must be answered before we reauthorize the Higher Education Act.

□ 1530

Mr. MCKEON. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Speaker, I rise today to urge support of H.R. 914 and would like to congratulate the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from California [Mr. MCKEON] for bringing this legislation to the floor. Unlike the authorization of the seven-member panel of experts to examine exploding costs of higher education, the work of this panel will provide important information as we strive to make a college education an affordable reality for American students and their families. This legislation also contains language which is necessary for the States of Kansas and New Mexico to count the Federal impact aid they receive as part of their overall State education budget. This will save the State of Kansas $6.5 million this year alone. This technical correction will result in no costs to the Federal Government. It simply allows Kansas to recognize the Federal impact aid it receives as part of the State's overall education budget.

Mr. Speaker, this provision has been approved by the members of the Committee on Education and the Workforce and passed by unanimous consent in the Senate. I appreciate the assistance of the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from California [Mr. MCKEON] for including this provision for the State of Kansas, and I urge the passage of H.R. 914.

Mr. KILDEE. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. LUTHER].

Mr. LUTHER. Mr. Speaker, I commend the gentleman from California [Mr. MCKEON] and the gentleman from Michigan [Mr. KILDEE] for their excellent work on this legislation. Today Congress has the opportunity to take an important bipartisan step in addressing an issue which affects so many American families, the rising costs of higher education. There is perhaps no long-term issue more important to our Nation than providing Americans opportunities within our educational system.

Shortly after I arrived in Congress just 2 years ago, I, along with other concerned Members of the House, made a bipartisan request that the GAO investigate the recent history of increases in college and university costs. The results of their report were disturbing: a 234 percent increase in the cost of attending a 4-year public college over the last 15 years, placing a college education and the American dream out of reach for many Americans. The legislation before us today will allow Congress the benefit of expert recommendations by an independent nonpartisan commission on what can be done to address rising college costs.

Mr. Speaker, I urge my fellow House Members to support H.R. 914.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Speaker, today I rise to voice my strong support for the Costs of Higher Education Review Act of 1997, a commission which will create a short-term commission to study the reasons for the constant increases in the costs of postsecondary education. As we embark upon a debate over the reauthorization of the Higher Education Act, the hard work and findings of this commission could be invaluable to our efforts, Mr. Speaker. The inescapable reality is we need to find ways to ensure that colleges, universities, and vocational institutions remain affordable for all Americans. Anything less and this Nation's young people will not be prepared to confront and overcome the challenges of the high-technology skills-dependent workplace of the 21st century.

The need for cost containment is real. In fact, over the last several months I have had numerous students and parents, as I would surmise many of my colleagues around the Nation have had, in Memphis voice their concerns over the cost of college, the rising costs of college. Several young people in my district who have decided to pursue a postsecondary education and are doing extremely well in the classroom are nevertheless facing the prospect of having to take a semester off or drop out altogether because they cannot qualify for loans, and/or their Pell or school-based grants are insufficient to cover the costs of tuition, room and board, and books. It is our duty as public policymakers to do all that we can to make sure that young people like those in my district who have worked hard, played by the rules and stayed in school, that they have a meaningful opportunity to pursue a postsecondary education. I am confident that if we work together Congress, the President, higher education administrators, parents, and students can find the will and the way to open and keep open the doors of educational opportunity for all Americans.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], the former Governor.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from California for yielding the time. I want to make it clear from the beginning that I am a strong supporter of higher education. The productivity and performance of our economy is inextricably entwined with the investments in education that we individually and collectively make as a nation. Clearly, higher education is a valuable commodity, and it behooves us to make it readily available to our young people, our veterans, and to all Americans.

Put simply, I want everyone who possibly can to have the opportunity to pursue higher education, but I fear that college may be eluding many Americans because of the costs of attending. College tuition is one of the most important determinants of student access. Unfortunately, it has been rising at an astronomical rate. Over the last 3 years tuition costs have been rising at roughly 6 percent or twice the rate of inflation, which is a vast improvement over prior years. Years of unchecked growth and not entirely necessary growth have left a legacy of inefficiency in many of our colleges and universities which should be reviewed.

Mr. Speaker, H.R. 914 authorizes a short-term commission to study the rising costs of higher education and to recommend possible solutions. I would hope that this commission focuses on identifying plausible solutions rather than identifying the problem. I think that anyone who has spent time looking at this issue knows what the problem is and could identify causes. That is the easy part. The tough part is asking the tough questions and developing creative and reasonable policies to fix the problem.

Do colleges and universities need to examine and refine their mission? What is a critical mass of academic programs, of professors, of support staff and of students necessary to sustain a college or university as a viable institution? What can colleges and universities learn from the numerous examples of corporate restructuring in the 1980's? Can they grow smaller without compromising the richness and depth of their academic programs? Should they carve out a niche and specialize in a few areas? What exactly are the components of a quality education?

As a former Governor I know well the challenges facing presidents of colleges and universities who seek to restructure the system, make it more efficient and reduce costs while maintaining support from their constituencies professors, administrations, and students. It is no easy task, and I would urge us all to support the commission bill.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LAFALCE].

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, today higher education is a virtual necessity, but there is a tremendous difficulty in achieving that necessity, and that is the significantly increased cost of higher education. If my colleagues go back over either a 10-year or a 20-year period, they will see that the costs of higher education have increased at both public and private colleges and universities at a rate of approximately two to three times that of the rate of inflation. If my colleagues look at the increase in the cost of higher education and the increase in median income, they will see that higher education costs have again increased at about two to three times the increase in the median income.

So how can individuals afford a higher education? They cannot afford to go to school; they cannot afford not to go to school. They are in a bind. What happens? More and more often, students are borrowing money, they are going into deep debt, and it is not unusual today for a college student to graduate with a minimum of $10,000 in personal indebtedness, but very, very frequently considerably more: $20, $30, $40, $50,000. This imposes a huge burden on their entire future.

Mr. Speaker, at the very least we should examine a number of issues, and I congratulate the gentleman from California on his initiative. This is necessary. All we are doing by this commission is saying let us look at this problem, let us find out why costs have increased two to three times the median income, two to three times the cost of inflation, et cetera. We have got to do something.

Who is we? Everybody. We in the Congress, yes, of course; in the States, yes, of course; administrators at school, yes; boards of trustees, faculties, yes. The easy answer is to just say, well, increase tuition to whatever it might be because the students must go to college and they will borrow more and more and more. They have been doing this. We must bring that to a halt. We must analyze the possibility of tying future financial assistance to some leveling off of these constant increases in the costs of higher education. That is further than the bill goes, but it might well be necessary.

Mr. Speaker, I applaud the gentleman once again for his initiative, and I urge everyone to support it.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, we have no further speakers, but I yield myself such time as I may consume to take just a minute to thank those on the other side who have been so helpful in bringing us to this point. As my colleagues know, we have been working on this committee in a bipartisan nature. The gentleman from Michigan [Mr. KILDEE], the ranking member, has been very supportive, even though he does have some concerns on this. He has worked with us to make this bill better, to bring it to the floor, and supports it at this point. The gentleman from Minnesota [Mr. LUTHER] has been very helpful and very supportive on this bill, and I would like to thank him, the gentleman from Tennessee [Mr. FORD], and others.

Once one starts naming names, it is a danger because they always leave out some people that have been so helpful, but I would like to thank those Members and others who have been helpful, and especially our staff who have worked night and day to get this to this point, because it is urgent that we get this bill passed quickly so that we can get the results back in time to use them for the higher ed reauthorization.

Mr. FAWELL. Mr. Speaker, I rise in support of the Impact Aid Technical Amendments to H.R. 914. I have long been a supporter of the Impact Aid Program, and I believe these amendments add necessary clarifications to ensure the integrity of the section 8002 funding disbursement.

As we all know, States and localities provide approximately 94 percent of education funding in the United States. The largest source of this funding is local property taxes. When a school district loses 10 percent of its taxable property, the local schools are severely impacted.

In 1950, Congress responded to this problem by creating the Impact Aid Program. The 1950 statute requires that the Federal Government reimburse each section 2 school district for each year in ''such amount as * * * is equal to the continuing Federal responsibility for the additional burden with respect to current expenditures placed on such school district by such acquisition of property.'' The meaning of this language is very clear to me—the Department of Education should reimburse each section 2 school district by the amount which the Federal presence negatively impacts the school district.

My district in Illinois is home to a number of school districts eligible for assistance under section 8002. These funds help guarantee that the quality education they provide to their students will not be adversely affected due to the loss of tax revenue on federally-owned property.

Technical corrections authorization legislation enacted by Congress in 1996, had the impact of directing a large portion of the Impact Aid section 8002 funds to one school district. I am pleased at the way the House has chosen to address this inequity. Technical amendments enacted today will ensure that all funds appropriated to the Impact Aid section 8002 program will be allocated on the basis of the formula, ensuring that schools are allowed to compete on a level playing field. I strongly support this provision which will ensure an equitable disbursement of funds to all eligible schools who receive funds under section 8002.

I thank the chairman and ranking member for their work on this bill and urge Members to support H.R. 914.

Mr. MCKEON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD) The question is on the motion offered by the gentleman from California [Mr. MCKEON] that the House suspend the rules and agree to the resolution, H.Res. 145.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.Res. 145.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING USE OF THE CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 49) authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby.

The Clerk read as follows:

H. CON. RES. 49

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.

The Greater Washington Soap Box Derby Association (hereinafter in this resolution referred to as the ''Association'') shall be permitted to sponsor a public event, soap box derby races, on the Capitol grounds on July 12, 1997, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capital and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 49 simply authorizes the use of the Capitol grounds for the Greater Washington Soap Box Derby races to be held on July 12, 1997. This free event is sponsored by the All American Soap Box Derby and its local affiliate, the Greater Washington Soap Box Derby Association. Its participants are young girls and boys from 9 to 16 who reside in the greater Washington metropolitan area. Winners in the various age groups will advance to the national championship in Akron, OH. Pursuant to this resolution the association will assume full responsibility for any expenses or any liability related to the event. This association also agrees to make any necessary arrangements for the races with the approval of the Architect of the Capitol and the Capitol Police Board.

Mr. Speaker, for over 50 years the soap box derby races have taken place in Washington, DC. It is truly an exciting event for the family, and I support the resolution and urge my colleagues to pass the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

□ 1545

Mr. Speaker, I join the gentleman from California [Mr. KIM] in supporting H. Con. Res. 49. I would like to just compliment Rick Barnett and Susan Brita, the staff, for all of the work they do on many of these things that are more laborious than seem to be substantive, but they do serve a good purpose.

The 1996 event produced three winners, who then went on to win the National Derby held in Akron, OH. Two of these winners were brother and sister. The Washington event has grown in size and now has become one of the best attended in the country.

The derby organizers will work with the Architect of the Capitol and the Capitol Police to ensure that appropriate rules and regulations are in place. It is a good initiative. I join Mr. KIM in supporting it.

Mr. HOYER. Mr. Speaker, I rise enthusiastically today in support of House Concurrent Resolution 49, a resolution authorizing the use of the grounds of the U.S. Capitol for a truly wonderful and family-oriented event: the Greater Washington Soapbox Derby. For the past 6 years, I have sponsored this legislation, and I would like to offer my very sincere thanks to the chairman and ranking member of the Subcommittee on Public Buildings and Economic Development—Mr. KIM and Mr. TRAFICANT—and to the chairman and ranking member of the full Committee on Transportation and Infrastructure—Mr. SCHUSTER and Mr. OBERSTAR—for their commendable work in bringing this legislation to the floor in so timely a manner.

This resolution authorizes the use of Constitution Ave. between Delaware Ave. and Third St. for the 56th running of the Greater Washington Soap box Derby on July 12, 1997. The competition is part of the All-American Soap box Derby which will be held later this year.

The resolution also authorizes the Architect of the Capitol and the Capitol Police to negotiate a licensing agreement with the Greater Washington Soap Box Derby Association ensuring full compliance with the rules and regulations governing use of the Capitol Grounds.

I am happy once again to have the support of Members from the Washington metropolitan region as cosponsors. Ms. NORTON, Mr. MORAN, Mr. WOLF, Ms. MORELLA, and Mr. WYNN have been enthusiastic supporters in years past and they are again this year.

This event provides young boys and girls, ages 9 to 16, with an invaluable opportunity to develop and practice both good sportsmanship and engineering skill. This year, there will once again be over 50 participants from Washington, DC, and the surrounding communities of northern Virginia and Maryland participating in the derby events. I am especially pleased that boys and girls representing four of the five counties in my district will be competing in this year's derby.

The Soap box Derby promotes a fun, positive and character-building activity for our young people to participate in. At a time when our newspapers are filled with stories about the transgressions and negative conduct of our youth, and at a time when Congress has been forced to confront juvenile crime as an issue of national scope and magnitude, it is certainly a pleasure to be involved in an event which provides a positive outlet for kids and teenagers from the region.

I like to recall a statement made to me by Ken Tomasello, director of the Greater Soap Box Derby Association, when I introduced the first resolution authorizing the use of the Capitol Grounds for this event. Ken said, in short, ''The derby doesn't keep kids off the street; it gives them a drug-free activity on the street.''

The young people involved in this event spend many months preparing for this race—building their derby cars from the ground up. The day they actually compete provides a genuine sense of accomplishment and camaraderie—for the participants, and their families and friends alike. This worthwhile event also provides visitors to the Capitol and local residents with a safe and enjoyable day of activities.

I would like to take this opportunity to offer my sincere congratulations to all of this year's participants for their hard work and dedication and I wish them all well in this year's race.

Again, I want to thank the Transportation Committee for its consistent support of the Greater Washington Soap Box Derby and I encourage all of my colleagues to attend this year's race.

Mr. KIM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 49.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 49.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 66) authorizing the use of the Capitol Grounds for the 16th annual National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 66

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police, and its auxiliary shall be permitted to sponsor a public event, the sixteenth annual National Peace Officers' Memorial Service, on the Capitol grounds on May 15, 1997, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, in order to honor the more than 117 law enforcement officers who died in the line of duty during 1996.

SEC. 2. TERMS OF CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 66 authorizes the use of the Capitol Grounds for the 16th annual Peace Officers' Memorial Service on May 15, 1997. The service will honor over 117 Federal, State, and local law enforcement officers killed in the line of duty in 1996.

The National Fraternal Order of Police will sponsor the event and agree to make all the necessary arrangements with the Architect of the Capitol and the Capitol Police Board. In addition, the sponsor will assume all expenses and all liability in connection with the event. The event will be free of charge and open to the public.

This is a fitting tribute to the men and women who gave their lives for our lives. I support this measure, and I urge my colleagues to support this resolution.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

I want to join with the gentleman from California [Mr. KIM] in supporting H. Con. Res. 66. Sadly, this event has become a tradition during which families, friends, and fellow officers gather to honor the lives and sacrifices of peace officers who die in the line of duty. On average, Mr. Speaker, one law enforcement officer is killed somewhere in the United States nearly every other day.

In 1981, when I was sheriff of Mahoning County, OH, one of my deputies, John ''Sonny'' Litch, was killed in the line of duty. Sonny was then transporting a prisoner to the hospital. His name is on the National Law Enforcement Officers Memorial in Washington, DC.

No one gave more for our community than the Litch family, and to find Sonny in a position without compensation, Mr. Speaker, was a marvel in itself.

During 1996, seven law enforcement officers from the State of Ohio were killed in the line of duty. I want to place their names in this RECORD.

James Gross, Ohio State Highway Patrol; Brian Roshong, Canton Police Department; Jason Grossnickle, Dayton Police Department; Douglas Springer, Coldwater Police Department; Derrik Lanier, Cuyahoga Metro Housing Authority Police; Duane Guhl, Fulton County Sheriff's Office; Hilary Cudnik, Cleveland Police Department.

The names of these officers, Mr. Speaker, will all be engraved on the National Law Enforcement Officers Memorial in Washington, DC. It is most fitting and commendable that we honor the service of these great patriots who have given so much for our country and our communities.

Mr. CUNNINGHAM. Mr. Speaker, I am proud to support House Concurrent Resolution 66, authorizing the use of the U.S. Capitol Grounds for the 16th annual National Peace Officers' Memorial Day services on Thursday, May 15.

In memory of the law officers who have given their last full measure of devotion to their communities and their country in service of public safety, and in tribute to their families and their colleagues, the flags atop the U.S. Capitol will be flown at half-staff on National Peace Officers' Memorial Day. I would like to recognize Speaker NEWT GINGRICH for his leadership in helping us make this tribute possible.

I also thank Chairman JAY KIM and Ranking Member JAMES TRAFICANT, of the House Subcommittee on Public Buildings and Infrastructure, for their timely and expeditious work in support of our peace officers' use of the Capitol Grounds.

Mr. KIM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 66.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 66.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING 1997 SPECIAL OLYMPICS TORCH RELAY TO BE RUN THROUGH CAPITOL GROUNDS

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res 67) authorizing the 1997 Special Olympics Torch Relay to be run through the Capitol Grounds.

The Clerk read as follows:

H. CON. RES. 67

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On June 13, 1997, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, the 1997 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such actions as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 67 authorizes the 1997 Special Olympics Torch Relay to be run through the Capitol Grounds. This relay is part of the journey of the Special Olympics torch to the District of

Columbia Special Olympics Summer Games to be held at Gallaudet University on June 13, 1997. The U.S. Capitol Police will host opening ceremonies for the torch run on Capitol Hill, and the event will be free of charge and open to the public.

Each year, over 1,000 law enforcement representatives from 60 local and Federal law enforcement agencies in Washington, D.C participate in this annual event to show their support of the Special Olympics. This is a very worthy endeavor which I am proud to support, and I urge my colleagues to pass this resolution, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER], the distinguished sponsor of the Soap Box Derby legislation.

(Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I thank my friend from Ohio, [Mr. TRAFICANT] for yielding, and I thank the gentleman from California, [Mr. KIM], as well.

Obviously, Mr. Speaker, I am in very strong support of the pending resolution on the Special Olympics. It is an extraordinarily worthwhile endeavor, giving hope and opportunity to so many folks, and it is worthwhile that the Capitol Grounds be allocated for that particular purpose.

In addition, Mr. Speaker, I was a little late getting here and it passed with such efficiency and effectiveness that I failed to timely reach the floor. But I appreciate the gentleman from Ohio yielding and his suggestions as well and rise in strong support of H.Con.Res. 49, which authorizes the use of the grounds of the U.S. Capitol for a truly wonderful and family-oriented event, the Greater Washington Soap Box Derby.

Mr. Speaker, I have sponsored this resolution for the past 6 years, and I want to thank the committee and its staff for assuring the timely passage of this resolution in each one of those years. This Soap Box Derby is an American tradition. The Hill, Capitol Hill, is an excellent hill from which to do that, and it is certainly appropriate that on July 12, just a week after the birthday of our Nation, that this very American of traditions is carried out in the site of the U.S. Capitol.

It is a tradition which teaches to young people self-reliance, the worth of competition, and the worth of adding their hands and their talent to constructing something of worth.

So I again express my strong support not only of the resolution already passed on the Soap Box Derby, but on this one as well.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Soap Box Derby is an institution, as is the gentleman from Maryland [Mr. HOYER], and we appreciate his work with our subcommittee each year, and we thank him for his support and leadership.

I would like to speak out for this resolution. The D.C. Special Olympics has participants from over 100 public schools, group homes, agencies and associations serving citizens with developmental disabilities. The D.C. chapter reaches over 25 percent of all eligible citizens. No other city or State does it any better.

So I want to join with the gentleman from California [Mr. KIM], the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Pennsylvania [Mr. SHUSTER] and with the staff, Mr. Barnett and Ms. Brita, in support of this resolution and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and agree to the concurrent resolution, H.Con.Res. 67.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 67.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONCERNING THE DEATH OF CHAIM HERZOG

Mr. BEREUTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 73) concerning the death of Chaim Herzog.

The Clerk read as follows:

H. CON. RES. 73

Whereas Chaim Herzog, the sixth President of the State of Israel, passed away on Thursday, April 17, 1997;

Whereas Chaim Herzog, in his very life exemplified the struggles and triumphs of the State of Israel;

Whereas Chaim Herzog had a brilliant military, business, legal, political, and diplomatic career;

Whereas Chaim Herzog represented Israel at the United Nations from 1975–1978 and with great eloquence defended Israel and its values against the forces of darkness and dictatorship;

Whereas Chaim Herzog, as President of Israel from 1983–1993, set a standard for honor and rectitude; and

Whereas Chaim Herzog was a great friend of the United States of America and as President of Israel had the honor of addressing a joint meeting of the United States Congress on November 10, 1987: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress of the United States notes with great sadness the passing of Chaim Herzog, a great leader of Israel and a great friend of America and the Congress sends its deepest condolences to the entire Herzog family and to the Government and people of Israel; and

(2) a copy of this resolution shall be transmitted to the Speaker of the Knesset in Jerusalem, to President Ezer Weizman of Israel, and to Mrs. Aura Herzog of Herzlia, Israel.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. BEREUTER].

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this resolution is very simple; it is to express the condolences of the House to the family of Chaim Herzog, the late President of the State of Israel, and to the people and Government of that State. Chaim Herzog was, as many know, the son of a rabbi, in fact, the son of the Chief Rabbi of Ireland. He became a soldier in the British Army, landing in Normandy and running British intelligence in northern Germany. Later he was a lawyer and a diplomat serving in the Israeli Embassy in Washington, and as Permanent Representative to the United Nations. In the culmination of his career, he became the President of the State of Israel.

The President of Israel is its Head of State, standing above politics but critical to the public life of the country and a symbol of its unity.

Mr. Speaker, this Member joins with my colleagues in expressing our thanks for the life of Chaim Herzog and our condolences to his family in Israel and his friends and admirers around the world.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. BURTON] for bringing this resolution before the House. I commend both of them for their leadership on this resolution.

As has been explained by the distinguished gentleman from Nebraska, Chaim Herzog was the sixth President of the State of Israel. He had a very brilliant military, business, legal, political and diplomatic career. He was a great leader of Israel, and a great friend of America. Those of us who knew him personally knew him to be a man of extraordinary compassion, exceedingly gracious, and had about him a great lack of pretense, despite his extraordinary achievements.

□ 1600

It is fitting that the Congress commemorate his life and his work, and send its deepest condolences to the entire Herzog family, and to the Government and the people of Israel. I urge the adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to note the assistance of Mr. James Soriano, a Pearson Fellow from the Department of State who has been on our full committee staff for the past year, and helped us with this resolution and many other items during that period.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the gentleman from Indiana [Mr. BURTON] for offering this sense-of-Congress resolution commemorating the life of former President of Israel Chaim Herzog. I appreciate the vice chairman of our committee, the gentleman from Nebraska [Mr. BEREUTER], for bringing this measure to the floor at this time. I want to commend the ranking minority member, the gentleman from Indiana [Mr. HAMILTON], for his support of the resolution.

Mr. Speaker, we were all saddened to learn of the passing last month of former President of Israel Chaim Herzog. Mr. Herzog's life mirrored the birth and early history of the State of Israel, and during his career he served as a distinguished soldier, author, and diplomat.

Mr. Herzog was born in Belfast, Ireland, in 1918, the son of a rabbi. He emigrated to Mandatory Palestine in 1935. He served as an officer in the British Army during World War II, and landed with allied troops in Normandy in 1944. Later on he served with distinction in defending Israeli from Arab attack during Israel's war of independence in 1948.

After the June 1967 war Mr. Herzog was appointed Israel's first military governor of the West Bank. In the 1970's he served at the Israeli Embassy in Washington, and was later named Israel's ambassador to the United Nations. He was the author of several books, including ''Israel's Finest Hour,'' a historical account of the 1967 war. This illustrious career continued with his service as Israel's President in 1983.

Mr. Speaker, Chaim Herzog has been described by his contemporaries as a man of war who loved peace. We extend to his family and to the people of Israel our deepest condolences for the passing of a true gentlemen, a true leader who helped shape the history of Israel and who also pursued peace. We once again thank the gentleman from Indiana [Mr. HAMILTON] for his thoughtfulness in supporting this measure, and I thank the gentleman from Nebraska [Mr. BEREUTER] for his leadership.

Ms. HARMON. Mr. Speaker, the world lost a great statesman and a friend of peace last month when former Israeli President Chaim Herzog passed away.

Today, the House considers a resolution which expresses the condolences of the American people to the Herzog family and the people of Israel on the occasion of President Herzog's death. As a cosponsor of the resolution I strongly urge its passage.

Chaim Herzog led an extraordinary and inspiring life, playing a role in many of the events central to the international Jewish community during the 20th Century. The son of Ireland's Chief Rabbi, later Chief Rabbi of Israel, Herzog first came to the Jewish homeland in 1935 as a yeshiva student. By the age of 16, he had joined the Haganah, the underground precursor to today's Israel Defense Forces. During World War II, as an officer in the British Army, he was part of the first Allied formation to cross into Germany and was present at the liberation of the Bergen-Belsen concentration camp.

Herzog also played a vital role in the political and military development of the State of Israel from the date of its establishment. He helped design the new state's famed intelligence agency and served as a general in its army. In the aftermath of the Six-Day War, Herzog became the military governor of the West Bank and Jerusalem.

But Herzog's greatest contributions on the world stage came during his tenure as Israel's Ambassador to the United Nations, where he forcefully battled unfair resolutions equating Zionism with racism, and as President of Israel, a position he held for 10 years.

Last Summer, it was my privilege to welcome Ambassador Herzog to my congressional district where he spoke at Temple Ner Tamid.

Mr. Speaker, throughout his long and distinguished career, Chaim Herzog held a firm and clear vision of a safe Israel in a peaceful Middle East. We would all do well to follow his example in our pursuit of that same goal. I urge my colleagues to pass this resolution, as a tribute to this great man.

Mr. BURTON of Indiana. Mr. Speaker, I am very proud to have introduced this resolution expressing the sympathy of the Congress and of the American people over the death of Chaim Herzog. I am very pleased that we were able to move this resolution to the floor very quickly and I thank the chairman of the International Relations Committee, my friend Ben Gilman of New York for his support and leadership.

All of us were sadded to learn recently about the death of Chaim Herzog at the age of 78. As staunch friends of the State of Israel and the people of Israel, we share their grief and their sorrow.

Chaim Herzog was truly a hero of Israel and also a great friend of America. Like Yitzhak Rabin, whose death we also mourned all too early, Chaim Herzog lived a life that was a mirror of the drama of his country. Born in Belfast, he was the son of the Chief Rabbi of Ireland. As a boy, he moved to the land of Israel, where his father became Chief Rabbi.

Chaim Herzog fought in the British Armed Forces in World War II and participated in the liberation of the death camps, an experience that influenced the rest of his life. During Israel's war of independence Herzog played a critical role in the battle for Jerusalem. He then became chief of military intelligence.

During the Six Day War—almost 30 years ago—General Herzog's radio broadcasts helped to lift the morale of the people of Israel.

In 1975, he was named Israel's Ambassador to the United Nations where he served with courage and defended his country with great eloquence. It was Herzog who stood up to defend Israel against the odious and false charge that Zionism is a form of racism. This is what Herzog said in his brilliant speech on that occasion: ''The vote of each delegation will record in history its country's stand on antisemitic racism and anti-Judaism. You, yourselves bear the responsibility for your stand before history. For as such, you will be viewed in history * * *. For us, the Jewish people, this is but a passing episode in a rich and event-filled history * * *. This resolution based on hatred, falsehood, and arrogance is devoid of any moral or legal value.''

Mr. Speaker, to this day, the fact that the United Nations General Assembly passed that resolution stands as a severe indictment of the United Nations itself. I am very proud to have been a delegate to the United Nations in 1991 when that immoral resolution was finally repealed and I am proud to have participated in the effort to repeal it.

Let me conclude by noting that Chaim Herzog capped this event-filled and achievement-filled life with his election as President of Israel in 1983. He served for 10 years, set a new standard for dignity, honor, and decency and he also addressed a joint meeting of the U.S. Congress in 1987.

Mr. Speaker, it is fitting and appropriate that this Congress express its sadness over the death of Chaim Herzog and convey its sympathy to the people of Israel and to the Herzog family, Mrs. Aura Herzog and her children Joel, Michael, Isaac, and Ronit and their respective families.

I urge the unanimous adoption of this resolution. Mr. Speaker, I would also like to submit into the record the historic and moving speech given by Chaim Herzog at the United Nations to which I referred. And the obituary written about him in the New York Times.

[From the New York Times, Apr. 18, 1997]

CHAIM HERZOG, 78, FORMER PRESIDENT OF ISRAEL

(By Eric Pace)

Chaim Herzog, Israel's outspoken president from 1983 to 1993, died on Thursday at Tel Hashomer Hospital in Tel Aviv. He was 78, and lived in Herzliya Pituach, a suburb of Tel Aviv.

The cause was heart failure after he contracted pneumonia on a recent visit to the United States, said Rachel Sofer, spokesman for the hospital.

Herzog, a former general, was Israel's chief delegate to the United Nations from 1975 to 1978, a critical period, after serving as its director of military intelligence and, in 1967, as the first military governor of the occupied West Bank. Over the years, he was also a businessman, a lawyer, an author and a Labor Party member of the Israeli Parliament.

In his two successive five-year terms as Israel's sixth chief of state, he strove to enlarge the president's role, which in Israel is

largely ceremonial, by making public declarations on issues that leaders in government would not, or could not, address.

Herzog argued in favor of greater rights for the Druse and Arab populations in Israel, declaring: ''I am the president of Arabs and Druse, as well as Jews.'' He worked actively to make political pariahs of Rabbi Meir Kahane and his fervently anti-Arab Kach Party.

In addition, Herzog was an outspoken though unsuccessful lobbyist for comprehensive change in the Israeli voting system, which has spawned a jigsaw-puzzle of political parties and frequent parliamentary stalemates.

By late 1987, as his first term was drawing to a close and while a national unity government was in power, he had probably become more influential and popular than any previous Israeli president.

This was largely because the Labor and Likud party partners in that government were always bickering and frequently turned to him to arbitrate their disagreements. Moreover, groups of Israelis, like farmers and nurses, were always looking to him for aid that they could not get from the deadlocked Cabinet.

Through the years, Herzog also made use of the Israeli president's power to pardon convicted criminals—and sometimes was criticized for doing so. In addition, he exercised the president's power to determine, after elections, which political party has the first opportunity to assemble a government.

His urbane, outgoing nature and his earlier roles in his country's life fitted him to serve as a symbol of Israeli unity during his years as president.

A descendant of rabbis, and a witness of Nazi concentration-camp horrors while he was an officer in the British army in World War II, he was steeped in the splendors and sorrows of Jewish history. He was also cosmopolitan, with the trace of a brogue from his native Belfast, Northern Ireland, and an education gained largely in Britain.

As the chief delegate to the United Nations, Herzog led Israel's defense against Arab attempts to oust it. In 1975, when the General Assembly passed a resolution equating Zionism with racism, he went to the rostrum and defiantly tore a copy of the resolution in two. Seventeen years later, the Assembly repealed the resolution.

Herzog was in the Israeli Defense Force at his country's birth in 1948, rose to the rank of major general and served twice as director of military intelligence, from 1948 to 1950 and from 1959 to 1962.

Then he retired, only to return as the West Bank's military governor just after the 1967 Arab-Israeli war, in which Israel, in an overwhelming victory, captured the West Bank and other territory from neighboring Arab countries.

He also became noted, among Israelis, for radio commentaries he gave on military subjects before and during that six-day war. He used the radio to urge Israelis to stay in their air-raid shelters during alerts, and in one widely quoted broadcast he told his listeners that they were in much less danger where they were than was the attacking Egyptian air force.

Herzog was first elected president by the Israeli Parliament, in 1983, in a rebuff to Prime Minister Menachem Begin's governing coalition of that day. By a vote of 61 to 57, with two blank ballots, Parliament chose him over the government's candidate, Justice Menachem Elon of the Supreme Court, to succeed President Yitzhak Navon of the Labor Party.

In 1988, Herzog was elected by Parliament to a second term, the maximum permitted by Israeli law. In that balloting, he was unopposed, having the sponsorship of the Labor Party as well as wide backing from the right-wing Likud bloc, Labor's partner in the coalition government of the time.

He was succeeded on May 13, 1993, by Ezer Weizman, a former defense minister and the nephew of Israel's first president, Chaim Weizman. Ezer Weizman had been elected by Parliament on March 24, 1993.

As president, Herzog was sometimes acid in his criticisms of the Israeli national voting system. In an interview in 1992, he said: ''The system we have is a catastrophe. It allows for fragmentation and wheeling and dealing and gives inordinate power to small groupings.''

He was also something of a gadfly on a variety of other issues during his presidency. He was one of the few prominent figures in Israeli politics to comment regularly on Israel's high incidence of fatal vehicular accidents. By late 1992, drivers had killed 20 times more Israelis in the last five years than had the Palestinian uprising, almost 2,300 people.

''If the enemy had slain us to this extent, the country would quake and we would be shaking in our foundations,'' Herzog declared then in a message for the Jewish New Year.

Earlier that year, at a time when Jewish settlers in the Israeli-occupied territories had taken various measures in retaliation for Arab acts of violence, he denounced vigilantism, saying in a radio broadcast: ''The phenomenon of taking the law into one's hands, of attacking innocents and interfering with the dedicated work of the security forces, endangers our foundations and future.''

Later in the year, with Israel not able to integrate all the new arrivals from the former Soviet republics fully into its economic life, Herzog proposed setting up soup kitchens for immigrants, and was criticized for doing so.

He also spurred controversy sometimes by his use of the presidential power to pardon. In the mid-1980s, he was criticized for pardoning agents of the Shin Bet security service and its chief, who was charged with commanding that two Palestinian bus hijackers be summarily executed.

In an interview in early 1993, Herzog noted that he had condemned ''what had happened.'' But he added that Israel was locked in combat with terrorists, and that to take the security-service personnel ''and put them on trial, and have each one bringing all sorts of evidence to prove that he wasn't the worst and so on, could have torn the Shin Bet to pieces just when we didn't need that.''

In addition, loud dissent arose after Herzog commuted the sentences of members of what was called a Jewish underground organization that had tried to kill local Palestinian functionaries.

He later contended that reducing the penalties against some of the convicted members, and making them decry their deeds, had helped to shatter their group.

As president, he traveled widely. He was among the world figures who, along with survivors of the Holocaust, gathered in Washington in April 1993 to dedicate the U.S. Holocaust Memorial Museum. There he described his horror when he came upon Bergen-Belsen and other Nazi death camps as a British officer.

''No one who saw those terrifying scenes,'' he said, ''will ever forget.''

In 1992, to mark the 500th anniversary of the expulsion of the Jews from Spain, Herzog went to Madrid and prayed together with Spain's king, Juan Carlos, in a gesture symbolizing reconciliation between their peoples.

But Herzog did not become reconciled with the nations that had presented the 1975 U.N. resolution. In the 1993 interview, while still president, he said:

''Of the three countries that presented the Zionism as racism resolution, one has relations with us although no embassy—that's Benin. Two still don't have relations—one which has relations with nobody, namely Somalia, and one which is in great trouble, namely Cuba. They were the three sponsors of that resolution, these bastions of democracy and freedom.''

Herzog was born on Sept. 17, 1918, in Belfast, the son of Rabbi Isaac Halevy Herzog, who was the chief rabbi of Ireland and later became the first Ashkenazi chief rabbi of Israel, and the former Sarah Hillman.

The Herzog family emigrated to Palestine in the mid-1930s, and the future president had three years of schooling at the Hebron Yeshiva there. The educational institutions where he later studied included Wesley College in Dublin, the Government of Palestine Law School in Jerusalem, and London and Cambridge universities.

In the British army during World War II, he served with the Guards Armored Division and in intelligence on the Continent. He was discharged and then joined the Jewish underground in Palestine before Israel was founded.

After his retirement from the military in 1962, he was for some years a high executive of a conglomerate of industrial enterprises that Sir Isaac Wolfson, a British businessman, owned in Israel.

Over the years he wrote, was a co-author of, or edited more than half a dozen books, including ''The Arab-Israeli Wars'' (Random House and Vintage, 1982), ''Heroes of Israel'' (Little, Brown, 1989) and ''Living History: A Memoir'' (Pantheon, 1996).

He is survived by his wife of 50 years, the former Aura Ambache; three sons Joel, Michael and Yitzhak, and a daughter, Ronit Bronsky. All his children live in Israel except for Joel, who lives in Geneva. Herzog is also survived by eight grandchildren.

In his memoirs he wrote: ''I pray that my children and grandchildren will see a strong and vigorous Israel at peace with its neighbors and continuing to represent the traditions that have sustained our people throughout the ages.''

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to add my support for this resolution honoring Chaim Herzog, former President of Israel and friend of America.

When Chaim Herzog gave that tremendously moving speech at the United Nations, he was defending not only Israel, but democracy and decency everywhere.

The United Nations which condemned Zionism also gave Fidel Castro a standing ovation. The fight for moral values which Chaim Herzog carried out with such courage, still continues.

In this very Chamber, Chaim Herzog addressed a joint meeting of this Congress on November 10, 1987, the anniversary of his U.N. speech and of Kristallnacht, the Nazi riots that signaled the beginning of the Holocaust in 1938. Chaim Herzog will be missed, but will always be remembered.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska [Mr. BEREUTER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 73.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

REPORT ON CONTINUING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–82)

The SPEAKER pro tempore (Mr. PEASE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of November 14, 1996, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) (IEEPA). This report covers events through March 31, 1997. My last report, dated November 14, 1996, covered events through September 16, 1996.

1. The Iranian Assets Control Regulations, 31 CFR Part 535 (IACR), were amended on October 21, 1996 (61 Fed. Reg. 54936, October 23, 1996), to implement section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by adjusting for inflation the amount of the civil monetary penalties that may be assessed under the Regulations. The amendment increases the maximum civil monetary penalty provided in the Regulations from $10,000 to $11,000 per violation.

The amended Regulations also reflect an amendment to 18 U.S.C. 1001 contained in section 330016(1)(L) of Public Law 103–322, September 13, 1994, 108 Stat. 2147. Finally, the amendment notes the availability of higher criminal fines for violations of IEEPA pursuant to the formulas set forth in 18 U.S.C. 3571. A copy of the amendment is attached.

2. The Iran-United States Claims Tribunal (the ''Tribunal''), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered eight awards. This brings the total number of awards rendered to 579, the majority of which have been in favor of U.S. claimants. As of March 24, 1997, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was $2,424,959,689.37.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 24, 1997, the total amount in the Security Account was $183,818,133.20, and the total amount in the Interest Account was $12,053,880.39. Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Algiers Accords to replenish the Security Account. Iran filed its Rejoinder on April 8, 1997.

The United States also continues to pursue Case A/29 to require Iran to meet its obligations of timely payment of its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. The United States filed its Reply to the Iranian Statement of Defense on October 11, 1996.

Also since my last report, the United States appointed Richard Mosk as one of the three U.S. arbitrators on the Tribunal. Judge Mosk, who has previously served on the Tribunal and will be joining the Tribunal officially in May of this year, will replace Judge Richard Allison, who has served on the Tribunal since 1988.

3. The Department of State continues to pursue other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

On December 3, 1996, the Tribunal issued its award in Case B/36, the U.S. claim for amounts due from Iran under two World War II military surplus property sales agreements. While the Tribunal dismissed the U.S. claim as to one of the agreements on jurisdictional grounds, it found Iran liable for breach of the second (and larger) agreement and ordered Iran to pay the United States principal and interest in the amount of $43,843,826.89. Following payment of the award, Iran requested the Tribunal to reconsider both the merits of the case and the calculation of interest; Iran's request was denied by the Tribunal on March 17, 1997.

Under the February 22, 1996, agreement that settled the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (reported in my report of May 17, 1996), the United States agreed to make *ex gratia* payments to the families of Iranian victims of the 1988 Iran Air 655 shootdown and a fund was established to pay Iranian bank debt owed to U.S. nationals. As of March 17, 1997, payments were authorized to be made to surviving family members of 125 Iranian victims of the aerial incident, totaling $29,100,000.00 In addition, payment of 28 claims by U.S. nationals against Iranian banks, totaling $9,002,738.45 was authorized.

On December 12, 1996, the Department of State filed the U.S. Hearing Memorial and Evidence on Liability in Case A/11. In this case, Iran alleges that the United States failed to perform its obligations under Paragraphs 12–14 of the Algiers Accords, relating to the return to Iran of assets of the late Shah and his close relatives. A hearing date has yet to be scheduled.

On October 9, 1996, the Tribunal dismissed Case B/58, Iran's claim for damages arising out of the U.S. operation of Iran's southern railways during the Second World War. The Tribunal held that it lacked jurisdiction over the Claim under Article II, paragraph two, of the claims Settlement Declaration.

4. Since my last report, the Tribunal conducted two hearings and issued awards in six private claims. On February 24–25, 1997, Chamber One held a hearing in a dual national claim, *G.E. Davidson* v. *The Islamic Republic of Iran*, Claim No. 457. The claimant is requesting compensation for real property that he claims was expropriated by the Government of Iran. On October 24, 1996, Chamber Two held a hearing in Case 274, *Monemi* v. *The Islamic Republic of Iran*, also concerning the claim of a dual national.

On December 2, 1996, Chamber Three issued a decision in *Johangir & Jila Mohtadi* v. *The Islamic Republic of Iran* (AWD 573–271–3), awarding the claimants $510,000 plus interest for Iran's interference with the claimants' property rights in real property in Velenjak. The claimants also were awarded $15,000 in costs. On December 10, 1996, Chamber Three issued a decision in *Reza Nemazee* v. *The Islamic Republic of Iran* (AWD 575–4–3), dismissing the expropriation claim for lack of proof. On February 25, 1997, Chamber Three issued a decision in *Dadras Int'l* v. *The Islamic Republic of Iran* (AWD 578–214–3), dismissing the claim against Kan Residential Corp. for failure to prove that it is an ''agency, instrumentality, or entity controlled by the Government of Iran'' and dismissing the claim against Iran for failure to prove expropriation or other measures affecting property rights. Dadras had previously received a substantial recovery pursuant to a partial award. On March 26, 1997, Chamber Two issued a final award in Case 389, *Westinghouse Electric Corp.* v. *The Islamic Republic of Iran Air Force* (AWD 579–389–2), awarding Westinghouse $2,553,930.25 plus interest in damages arising from the Iranian Air Force's breach of contract with Westinghouse.

Finally, there were two settlements of claims of dual nationals, which resulted in awards on agreed terms. They are *Dora Elghanayan, et al.* v. *The Islamic Republic of Iran* (AAT 576–800/801/802/803/804–3), in which Iran agreed to pay the claimants $3,150,000, and *Lilly Mythra Fallah Lawrence* v. *The Islamic Republic of Iran* (ATT 577–390/391–1), in which Iran agreed to pay the claimant $1,000,000.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1997.*

HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 133 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for further consideration of the bill, H.R. 2.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, with Mr. LAHOOD Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, May 8, 1997, title VI was open for amendment at any point.

Are there any amendments to title VI?

Mr. LAZIO of New York. Mr. Chairman, I ask unanimous consent to protect two amendments in title VI, if we are to close this title, amendment No. 7 by the gentleman from Illinois [Mr. GUTIERREZ], and amendment No. 54 by the gentleman from Michigan [Mr. SMITH]. I ask unanimous consent that if it is the expectation of the Chair that we will close title VI, that there be permission on the part of the Chair to entertain these 2 amendments.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there other amendments to title VI?

The Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—AFFORDABLE HOUSING AND MISCELLANEOUS PROVISIONS

SEC. 701. RURAL HOUSING ASSISTANCE.

The last sentence of section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by inserting before the period the following: '', and the city of Altus, Oklahoma, shall be considered a rural area for purposes of this title until the receipt of data from the decennial census in the year 2000''.

SEC. 702. TREATMENT OF OCCUPANCY STANDARDS.

The Secretary of Housing and Urban Development shall not directly or indirectly establish a national occupancy standard.

SEC. 703. IMPLEMENTATION OF PLAN.

(a) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall implement the Ida Barbour Revitalization Plan of the City of Portsmouth, Virginia, in a manner consistent with existing limitations under law.

(2) WAIVERS.—In carrying out paragraph (1), the Secretary shall consider and make any waivers to existing regulations and other requirements consistent with the plan described in paragraph (1) to enable timely implementation of such plan, except that generally applicable regulations and other requirements governing the award of funding under programs for which assistance is applied for in connection with such plan shall apply.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act and annually thereafter through the year 2000, the city described in subsection (a)(1) shall submit a report to the Secretary on progress in implementing the plan described in that subsection.

(2) CONTENTS.—Each report submitted under this subsection shall include—

(A) quantifiable measures revealing the increase in homeowners, employment, tax base, voucher allocation, leverage ratio of funds, impact on and compliance with the consolidated plan of the city;

(B) identification of regulatory and statutory obstacles that—

(i) have caused or are causing unnecessary delays in the successful implementation of the consolidated plan; or

(ii) are contributing to unnecessary costs associated with the revitalization; and

(C) any other information that the Secretary considers to be appropriate.

SEC. 704. INCOME ELIGIBILITY FOR HOME AND CDBG PROGRAMS.

(a) HOME INVESTMENT PARTNERSHIPS.—The Cranston-Gonzalez National Affordable Housing Act is amended as follows:

(1) DEFINITIONS.—In section 104(10) (42 U.S.C. 12704(10))—

(A) by striking ''income ceilings higher or lower'' and inserting ''an income ceiling higher'';

(B) by striking ''variations are'' and inserting ''variation is''; and

(C) by striking ''high or''.

(2) INCOME TARGETING.—In section 214(1)(A) (42 U.S.C. 12744(1)(A))—

(A) by striking ''income ceilings higher or lower'' and inserting ''an income ceiling higher'';

(B) by striking ''variations are'' and inserting ''variation is''; and

(C) By striking ''high or''.

(3) RENT LIMITS.—In section 215(a)(1)(A) (42 U.S.C. 12745(a)(1)(A))—

(A) By striking ''income ceilings higher or lower'' and inserting ''an income ceiling higher'';

(B) By striking ''variations are'' and inserting ''variation is''; and

(C) by striking ''high or''.

(b) CDBG.—Section 102(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(20)) is amended by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) The Secretary may—

''(i) with respect to any reference in subparagraph (A) to 50 percent of the median income of the area involved, establish percentages of median income for any area that are higher or lower than 50 percent if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area; and

''(ii) with respect to any reference in subparagraph (A) to 80 percent of the median income of the area involved, establish a percentage of median income for any area that is higher than 80 percent if the Secretary finds such variation to be necessary because of unusually low family incomes in such area.''.

SEC. 705. PROHIBITION OF USE OF CDBG GRANTS FOR EMPLOYMENT RELOCATION ACTIVITIES.

Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

''(h) PROHIBITION OF USE OF ASSISTANCE FOR EMPLOYMENT RELATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from a grant under section 106 made in fiscal year 1997 or any succeeding fiscal year may be used for any activity (including any infrastructure improvement) that is intended, or is likely, to facilitate the relocation of expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.''.

SEC. 706. USE OF AMERICAN PRODUCTS.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 707. CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION.

In negotiating any settlement of, or consent decree for, any litigation regarding public housing or rental assistance (under title III of this Act or the United States Housing Act of 1937, as in effect before the effective date of the repeal under section 601(b) of this Act) that involves the Secretary and any public housing agency or any unit of general local government, the Secretary shall consult with any units of general local government and public housing agencies having jurisdictions that are adjacent to the jurisdiction of the public housing agency involved.

SEC. 708. USE OF ASSISTED HOUSING BY ALIENS.

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) in subsection (b)(2), by striking ''Secretary of Housing and Urban Development'' and inserting ''applicable Secretary'';

(2) in subsection (c)(1)(B), by moving clauses (ii) and (iii) 2 ems to the left;

(3) in subsection (d)—

(A) in paragraph (1)(A)—

(i) by striking ''Secretary of Housing and Urban Development'' and inserting ''applicable Secretary''; and

(ii) by striking ''the Secretary'' and inserting ''the applicable Secretary'';

(B) in paragraph (2), in the matter following subparagraph (B)—

(i) by inserting ''applicable'' before ''Secretary''; and

(ii) by moving such matter (as so amended by clause (i)) 2 ems to the right;

(C) in paragraph (4)(B)(ii), by inserting ''applicable'' before ''Secretary'';

(D) in paragraph (5), by striking ''the Secretary'' and inserting ''the applicable Secretary''; and

(E) in paragraph (6), by inserting ''applicable'' before ''Secretary'';

(4) in subsection (h) (as added by section 576 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public 104–208))—

(A) in paragraph (1)—

(i) by striking ''Except in the case of an election under paragraph (2)(A), no'' and inserting ''No'';

(ii) by striking ''this section'' and inserting ''subsection (d)''; and

(iii) by inserting ''applicable'' before ''Secretary''; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) may, notwithstanding paragraph (1) of this subsection, elect not to affirmatively establish and verify eligibility before providing financial assistance''; and

(ii) in subparagraph (B), by striking ''in complying with this section'' and inserting ''in carrying out subsection (d)''; and

(5) by redesignating subsection (h) (as amended by paragraph (4)) as subsection (i).

SEC. 709. PROTECTION OF SENIOR HOMEOWNERS UNDER REVERSE MORTGAGE PROGRAM.

(a) DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

''(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; and'';

(2) in paragraph (9)(F), by striking ''and'';

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; such restrictions shall include a requirement that the mortgage ask the mortgagor about any fees that the mortgagor has incurred in connection with obtaining the mortgage and a requirement that the mortgagee be responsible for ensuring that the disclosures required by subsection (d)(2)(C) are made.''.

(b) IMPLEMENTATION.—

(1) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by subsection (a) in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under paragraph (2) of this subsection.

(2) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by subsection (a). Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(B) of such section).

SEC. 710. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

The CHAIRMAN pro tempore. Are there any amendments to title VII?

Mr. LAZIO of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are now near the end, I believe, of consideration of amendments to H.R. 2, and at this point I think it is appropriate that we reflect on the fact that the central tenets of the bill and the themes of the bill are left intact by one of the actions of the House to this point, and that is mainly to create an environment where we can begin to successfully address core issues of poverty.

H.R. 2 says, in a very significant way, that we will not be able to end poverty or legislate the end of poverty from Washington or from any of the State capitols. In fact, if we are to make progress in our war against poverty, if we are to begin to transform communities, if we are to begin to empower communities and individuals and families, that will happen because we create the right set of incentives for responsibility, for work, for family, for economic development, for jobs, for empowerment, for rebuilding communities.

That will happen at the grassroots level, and it will happen because we empower and we create incentives so leaders of the community will arise and begin to form coalitions and groups that begin to transform their own backyard.

In this bill that we have before the House right now, Mr. Chairman, we begin that process by removing the disincentives to work which exist right now, by allowing local housing authorities more responsibility in meeting their local concerns and challenges, by ensuring that we maintain the synergy of having the working class, the working poor, living side by side with those that are unemployed; not because we want to deny benefits to people who are unemployed, but because we understand that it has been a disastrous experience to superconcentrate poverty in certain areas.

When I think back to some of the trips that I have made throughout the country to meet with people of low-income areas, and I think about places like State Street in Chicago, there are 4½ straight miles of nothing but public housing, 20-story buildings one after another, where because of Federal policy we have superconcentrated poverty, creating an environment where virtually everybody is unemployed, and I mean the unemployment rate is approximately 99 percent, Mr. Chairman; creating an environment where halls are sealed off so criminal activity can take place, terrorizing the law-abiding that are trying to live by the rules that happen to be in public housing.

We are saying in H.R. 2 we are going to put an end to that, we are going to stop looking the other way, we are going to stop tolerating that. We are going to look forward to the fact that we expect levels of responsibility, that we are going to expect people who are law-abiding to be protected, that we are not going to be standing with the people who are breaking the law, who are terrorizing those who are trying to live peaceably. We are going to be standing with the families, with the people that have the capacity to take a job, and who want to take a job and want to earn more money for their families. We are going to be standing with them, so we eliminate the rules that punish them and that work against them.

We are going to be standing with the communities that want the empowerment, that want that flexibility in order to remake themselves, to reconnect themselves with their own civic responsibility, and yes, we are for community service. We believe that is an important part of all this, because we think out there, Mr. Chairman, that there are hundreds of thousands of tenants in low-income areas in public housing that, not because of legislation in Washington, not because of legislation in the State capitols, but because it is the right thing to do, will begin the process of transforming their own communities.

We are not asking people to serve Big Brother, we are not asking people to serve some far-off master or some State capitol decision. We are asking people to give of themselves in their own community and in their own building, in their own hallway. These are the things that we are asking in H.R. 2, to enable communities to assume responsibility for their own destiny, to give them the right set of incentives so they can meet those to allow people to be everything they can be; not to punish work, but rather to create the incentives for the people who can work, want to work, have the ability to work, who can do that, so we do not close them out.

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I know that the gentleman from Massachusetts [Mr. KENNEDY] has been deeply committed to many of these same goals of creating mixed income and creating environments where we can begin to try and attack the core issues of poverty. I know the gentleman would certainly agree that it is both cost-effective and far more humane to begin to get to the root causes of poverty, to begin to address them. That is what the people in the community

need. That is what the people of low income need and certainly, I think, what taxpayers want. They want to know that they are getting value for the dollar and they want to see that the people who have ability to transition back into the work force or to transition back to market-rate units can do that.

Although we have had some concerns about how we get there, I know when this is said and done, this bill is up for final passage, that we will be able to move forward and achieve those goals.

AMENDMENT OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KENNEDY of Massachusetts:

Page 287, after line 15, insert the following:

''(6) COMMUNITY WORK REQUIREMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), as a condition of continued assistance under any existing contract for section 8 project-based assistance and of entering into any new or renewal contract for such assistance, each adult owner of the housing subject to (or to be subject to) the contract shall contribute not less than 8 hours of work per month (not including political activities) within the community in which the housing is located, which may include work performed on locations other than the housing.

''(B) EXEMPTIONS.—The requirement under subparagraph (A) shall not apply to any owner who is an individual who is—

''(i) an elderly person;

''(ii) a person with disabilities;

''(iii) working, attending school or vocational training, or otherwise complying with work requirements applicable under other public assistance programs (as determined by the agencies or organizations responsible for administering such programs); or

''(iv) otherwise physically impaired to the extent that they are unable to comply with the requirement, as certified by a doctor.

''(C) DEFINITION.—For purposes of this paragraph, the term 'owner' includes any individual who is the sole owner of housing subject to a contract referred to in subparagraph (A), any member of the board of directors of any for-profit or nonprofit corporation that is an owner of such housing, and any general partner or limited partner of any partnership that is an owner of such housing.''.

Page 287, line 16, strike ''(6)'' and insert ''(7)''.

Mr. KENNEDY of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LAZIO of New York. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN pro tempore. A point of order is reserved.

The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, we have debated long and hard on this bill, the idea of a mandatory work requirement that is referred to as mandatory voluntarism. We have spent hours debating the provision in H.R. 2 which would require public housing residents, including mothers of young children, to perform 8 hours of community service each month. Whether this represents mandatory voluntarism, as Democrats have charged, or work for benefit, as Republicans have claimed, the sponsors of H.R. 2 were adamant that public housing residents who are not employed should be required to perform community service or be evicted from public housing.

Well, fair is fair. This amendment would take the very same requirement, the very same idea, the very same sense of giving back something to our country and apply it to owners of section 8 housing.

These owners get a clear financial benefit from the Government, federally subsidized rents on projects owned by such owners. Without such assistance, many such properties would go bankrupt, potentially bankrupting their owners.

Therefore, all this amendment says is that, if public housing residents who get a financial benefit from the Government should perform community service, so should the landlords. Please note that my amendment contains identical language and the provisions as those contained in H.R. 2 in the section dealing with public housing residents. We include exceptions for the elderly. We include exceptions for the disabled. And we include exceptions for anyone working or complying with welfare requirements.

This amendment only applies to idle landlords, those who simply collect rent checks from the Federal Government or spend their days watching Oprah Winfrey or playing golf all day. In other words, basically what we are suggesting here, Mr. Chairman, is what is good for the goose is good for the gander. What we want to do is make certain that this is not a punitive provision that is contained in H.R. 2, which would suggest only people in public housing who get a benefit from the Government who are not working should go ahead and volunteer but, rather, anyone who gets a benefit from public housing programs who does not work ought to also volunteer as well.

I hope that the gentleman from New York would consider accepting this amendment in the spirit of voluntarism which he has so adeptly included in the rest of this bill.

The CHAIRMAN pro tempore. Does the gentleman from New York [Mr. LAZIO] withdraw his point of order?

Mr. LAZIO of New York. Mr. Chairman, I withdraw my point of order.

Mr. Chairman, I move to strike the last word.

This amendment is offered obviously in response to the various attempts to strike the community service requirement in the bill and in fact, if adopted, would have the counterproductive effect of discouraging additional units of housing for low income people under the section 8 program.

The differentiation is, in this case, the program was created in order to encourage owners to develop properties and to dedicate their units to service for people of low income, low and moderate income.

So in that sense, there is very much a public mission involved in this. We are not extending a benefit to owners of low-income housing, which only moves one way, in the direction of the owner. In fact, in this sense there is a sense of reciprocity, that the benefit, to the extent that there is one, is the incentive to develop properties for low-income individuals and that in exchange for these incentives that the owner would commit by law to ensure that those units in his building or her building were only available to those of low income or moderately low income.

Of course, the adoption of this amendment, as I say, is in response, I believe, to the actions of this House in defense of the community service requirement but would have the perverse effect, in the end, of potentially undermining our ability to expand our affordable housing stock, ensuring that we have fewer owners who are participating in this program. And I would say, Mr. Chairman, in the end as we begin to think about restructuring this entire section 8 portfolio, which is an exceptional challenge, that the timeliness of such an amendment could not be worse in terms of trying to preserve the affordability of certain of these amendments.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I appreciate the gentleman yielding to me. I would point out to the gentleman that it seems to me that we were talking about an awfully important lofty principle last week in terms of making certain that people get a benefit from the Government in the form of subsidized housing ought to be required to give something back to the country in terms of volunteering.

We are not suggesting that anybody that is working or anybody that is elderly or anybody that is disabled should be covered by this amendment. We are saying if you are a coupon clipper, if you are just sitting back at home and you have instructed some——

Mr. LAZIO of New York. Reclaiming my time, Mr. Chairman, let me say to the gentleman, the difference is clearly here that we are, the community is receiving something back from the owners. They are receiving the commitment by the owners that they will develop property and they will make all the units available to people of low and moderate income. So there is a sense of reciprocity.

In fact, when we did do the community service, we did have a hearing in this House over the community service amendments, there was a sense on the

part of this House that we thought that it was entirely appropriate for people who were residents in public housing who were tenants and who received the benefit of public housing and very often had their utilities paid for, that they could, that we would ask the nonelderly, the nondisabled, the people that are not involved in educational or work experiences to give of themselves to help rebuild their own communities; 2 hours a week, 8 hours a month, 15 hours a day, an entirely reasonable request in return for the benefit.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, does the gentleman feel that only the poor should be required to give something back to their country?

Mr. LAZIO of New York. Reclaiming my time, Mr. Chairman, I would say to the gentleman, wherever there is a one-way street, wherever an individual, no matter what income, is receiving the benefit and giving nothing back to the community, then in those situations we believe community service and community work are appropriate. In those situations, as in the case of owners of section 8 housing, where we have encouraged them, the Federal Government went on and encouraged, enticed them to make the commitment to build affordable units, that is a two-way street.

The real bottom line here is that we have an enormous human potential of hundreds of thousands of Americans who are tenants in public housing that can be marshaled to bring about the level of change where we can begin to attack these core issues of poverty because in the end we have a great deal of talent at our disposal. We are not going to legislate the end of poverty. We are going to have change in our communities because people in these communities can begin to transform their own backyards.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I appreciate the gentleman from New York yielding to me.

I would just like to point out that this is a very clear and, I think, important amendment. It is establishing, I think, a reasonable principle, that just because you have money in America does not mean you should be exempted from these requirements that we seem to be so intent on putting on the poor, that the poor should work, that the poor are really the root cause of the moral decay of America because they are on welfare or because they accept public housing, that that is really the problem, the cancer that is eating at the soul of America.

I would just suggest that, having spent enough time around these so-called hallowed halls of justice in Washington, DC, that we see every bit as much immorality take place on this floor or around this city as we do any place else in America. I do not think that it is right that we say, listen, if you are a passive investor, we are not suggesting if you are actually managing the project, if you are working in the community, if you are actually building the housing, if you are involved in some way, that you should be covered under this requirement. We are just saying, if you are simply a passive investor, if you are not working in any other cause of employment, if you are just sitting back at home clipping coupons and investing and getting almost a guaranteed give-back from the Federal Government for providing project based section 8s, one of the richest programs in this country, one of the programs that the other side of the aisle suggests needs to be reformed, and I could not agree with more, we need to reform it. I have worked with Secretary Cuomo very closely. I have worked with the gentleman from California [Mr. LEWIS] on the Committee on Appropriations in trying to fashion some new ways of dealing with the overrich subsidies that go to some of the landlords that invest in the project based section 8 programs.

All we are suggesting is, hey, look, you want to sit back and get 20, 30, 40 percent on your money at taxpayer subsidy and then not do any work for it and you are not working in any other job throughout the year, maybe, just maybe it ought to be a reasonable premise that we expect you to do some volunteer work. It is only 8 hours a month, as the gentleman points out, only 15 minutes a day. All we want these passive investors, these coupon clippers to do is give us 15 minutes a day of volunteer work.

I would hope that the gentleman from New York would be willing to stand up to some of the wealthy and powerful investors and landlords of this country just as we are willing to stand up to those poor people that live in public housing and ask those wealthy and powerful individuals to give just as much back to America who are getting so much out of America. If you look at the kinds of subsidies that are received in terms of the amount of money that an individual who occupies a single unit of public housing receives versus the kind of money that comes back to passive investors in the project based section 8 program lining their pockets, believe me, a lot more money flows into the back pockets of project based section 8s than it does of public housing.

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I would just mention that in my background the only kind of coupon clipping that I was ever aware of was when my mom clipped the coupons for the supermarket.

Mr. KENNEDY of Massachusetts. Mr. Chairman, if the gentleman will continue to yield, I am glad that the gentleman now knows that there are other kinds of coupons that are clipped in America.

□ 1630

Because, believe me, if we are going to sit in the Congress of the United States, we should know that there are other people that are picking the pockets of those kind of coupon clippers that the gentleman grew up with.

I would suggest to the gentleman that it is important that we be aware of just how much they get out of this country and how many hundreds of billions of dollars comes out of the Congress of the United States that goes into their back pockets. Because that is really what goes on in this Chamber and that is really where the dollars need to be saved if we are to balance the budget.

We have cut the housing budget from $28 billion a year down to $20 billion a year. We have cut the homeless spending by a quarter. And what we do is we are going to say then that we are going to jack up the rents on the people that go into public housing, we are going to increase the incomes on the people that go into public housing, we will not do anything for the very poor that will no longer be eligible for public housing. They will not be taken care of; we will not even provide them with homeless programs. But boy, oh, boy, we should certainly not ask the landlords that are profiting so much on these projects, we should not ask them that are not working, are not disabled, are not elderly to just give 15 minutes a day, 15 minutes a day to volunteer on behalf of helping others.

I do not think it is a lot to ask. I think we are asking the same thing of people involved in public housing themselves, and I would hope, again, that the gentleman from New York would end up accepting this very small requirement.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 133, further proceedings on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] will be postponed.

Are there further amendments?

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER:

Page 335, after line 6, insert the following new section:

SEC. 709. TRANSFER OF SURPLUS REAL PROPERTY FOR PROVIDING HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the Federal

Property and Administrative Services Act of 1949), the property known as 252 Seventh Avenue in New York County, New York is authorized to be conveyed in its existing condition under a public benefit discount to a nonprofit organization that has among its purposes providing housing for low-income individuals or families provided, that such property is determined by the Administrator of General Services to be surplus to the needs of the government and provided it is determined by the Secretary of Housing and Urban Development that such property will be used by such non-profit organization to provide housing for low- and moderate-income families or individuals.

(b)(1) PUBLIC BENEFIT DISCOUNT.—The amount of the public benefit discount available under this section shall be 75 percent of the estimated fair market value of the property, except that the Secretary may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified due to any benefit which will accrue to the United States from the use of such property for the public purpose of providing low- and moderate-income housing.

(2) REVERTER.—The Administrator shall require that the property be used for at least 30 years for the public purpose for which it was originally conveyed, or such longer period of time as the Administrator feels necessary, to protect the Federal interest and to promote the public purpose. If this condition is not met, the property shall revert to the United States.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator shall determine estimated fair market value in accordance with Federal appraisal standards and procedures.

(4) DEPOSIT OF PROCEEDS.—The Administrator of General Services shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States and to accomplish a public purpose.

Mr. NADLER (During the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Chairman, I rise today to offer this amendment to H.R. 2. I would like to thank first of all the gentleman from New York [Mr. LAZIO], the gentleman from Massachusetts [Mr. KENNEDY], the chairman of the Committee on Government Reform and Oversight, the gentleman from Indiana [Mr. BURTON], and the chairman of the Subcommittee on Government Management, Information and Technology, the gentleman from California [Mr. HORN], and their staffs for their hard work and cooperation on this amendment. I deeply appreciate the bipartisan goodwill that was demonstrated in the process of bringing this amendment to the floor.

In this era of severely limited resources, we must do all we can with what we have to create affordable housing in both the public and private sectors. This amendment will do just that in a little way. This amendment will give the General Services Administration and the Department of Housing and Urban Development the option to transfer a parcel of surplus property in my district in New York to a nonprofit agency to provide low- and moderate-income housing.

The parameters laid out in the amendment are strict. The nonprofit agency must be experienced in the provision of housing for low-income families or individuals. The property must be used for low- and moderate-income housing for at least 30 years. If it is not, its title will revert back to the United States.

The Department of Housing and Urban Development will be allowed to require any additional terms and conditions, such as, for example, evidence of adequate financing, evidence of financial responsibility and so forth, that it deems necessary to protect the interests of the United States and to accomplish the goals of providing low- to moderate-income housing.

While this amendment does not mandate the General Services Administration to transfer this property in so many words, it is our intent to strongly encourage GSA to allow for the conversion of this space to affordable housing.

Let me make it quite clear that such a transfer is the intent of this amendment. This amendment does not mandate the GSA to transfer the property, only to allow for the unlikely possibility that no proposal meets the strict requirements set forth in the amendment, although we believe that there will be such a proposal.

I again thank my colleagues on both sides of the aisle for the degree of collegiality and cooperation they have shown in bringing this amendment to the floor.

Mr. LAZIO of New York. Mr. Chairman, I rise in support of the gentleman's amendment, and I congratulate the gentleman from New York for bringing forth this amendment. We have had a chance to work together and I want to thank him for his cooperation in working with the committee staff.

I believe this is an appropriate and positive reuse for this particular property, and I am supportive of the gentleman's efforts and will be supportive of this amendment when it comes to a vote.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the last word.

I wanted to just get clear on how long a period of time. We have already, as I understand it, about a 60-day setaside for homeless programs that are able to bid on these properties. I wondered if the gentleman from New York has any idea of what time period that the properties would then be held for.

First, let me say that I think the intent of the gentleman from New York is something I very strongly would favor, I think he is doing the people that are providing low-income housing a real service in terms of providing this amendment on the House floor, and I very much appreciate the gentleman's thoughtful and helpful suggestions.

I want to just try to understand how long the properties themselves, if the gentleman has an understanding of how long those might be tied up for.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, it is one piece of property, first of all. This only applies to one piece of property, by its terms. A particular address is set in the bill. This particular piece of property has already been declared not usable for McKinney Act purposes. So that is not a question.

It is our belief that this will be transferred within a period of months, hopefully, to the agency for low income cooperative housing, and that it will proceed to develop it for such purposes.

Mr. KENNEDY of Massachusetts. Mr. Chairman, reclaiming my time, I appreciate the gentleman's clarification. This is just for this single piece of property; it is not a provision across the board?

Mr. NADLER. If the gentleman would continue to yield, yes, that is correct.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I appreciate the gentleman's clarification.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. NADLER]).

The amendment was agreed to.

Mr. ROEMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to engage in a colloquy with the gentleman from New York [Mr. LAZIO], the distinguished chairman of the Subcommittee on Housing and Community Opportunity, and the gentleman from California [Mr. CALVERT].

Mr. Chairman, one of the primary purposes of the bill we are discussing today is to provide affordable housing for Americans. Certainly one major source of affordable, quality and unsubsidized housing is manufactured housing. At an average cost of $37,000, manufactured housing provides ownership opportunities to a wide range of Americans, including single parents, first-time home buyers, senior citizens, and young families, and now represents one out of every three new homes sold in the United States of America.

Mr. CALVERT. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from California.

Mr. CALVERT. Mr. Chairman, although the manufactured housing program is largely financed through industry-funded label fees and currently has a surplus of $7.5 million, there are significant staffing shortfalls in the Manufactured Housing and Standards Division in the Department of Housing and

Urban Development. Currently there are only 10 professional and 3 clerical staff administering the entire program, compared with the staffing level of 35 in 1984 when production levels were significantly lower.

Even though these personnel costs are primarily funded by the manufactured housing industry, and there are more than enough funds to pay for some reasonable personnel additions, program staffing levels are subject to overall HUD and OMB salary and expense caps.

Mr. ROEMER. Mr. Chairman, reclaiming my time, I would add that while there is not necessarily a need to return to the 1984 staffing levels, there is concern that the basic functions of the manufactured housing programs, such as issuing interpretations and updating even noncontroversial standards, are falling behind schedule.

In order to provide adequate staffing and administration of this program, I would like to work with the gentleman from New York [Mr. LAZIO], the gentleman from California [Mr. CALVERT], and other Members of this body, including the gentleman from Massachusetts [Mr. KENNEDY], in a bipartisan manner to set separate and distinct salary and expense caps for the manufactured housing program.

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I wanted to thank both the gentleman from California and the gentleman from Indiana for their interest and commitment to manufactured housing. It is one of the preeminent affordable housing tools that we have in America, and I want to say that we should be taking every reasonable action to preserve the Federal manufactured housing program.

In order to provide for the adequate staffing of the manufactured housing program, which is largely, as the gentleman said, self-funded through industry label fees and currently has a surplus in excess of $7 million, I recognize that it may be necessary to exempt the manufactured housing program from overall HUD and OMB salary and expense caps and create separate and distinct caps for the program. That would only be fair and reasonable under the circumstances. In fact, I circulated a letter to Secretary Cuomo signed by 72 Democrats and Republicans in the House expressing support for such changes.

I certainly look forward to working with my colleagues to make this important modification, and would tell both the gentleman from California and the gentleman from Indiana that, in addition, we have been working with the gentleman from Indiana [Mr. MCINTOSH], on this, and that I greatly appreciate their interest and commitment to this and look forward to working together in a collaborative way to make sure these changes take place.

Mr. ROEMER. Mr. Chairman, reclaiming my time, I thank the chairman and the gentleman from California and the gentleman from Massachusetts for their help on this very important issue to my district, to Indiana and to America, and look forward to working in a bipartisan way to solve this problem.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I just want to thank my good friend from Indiana for the work he has done. He has brought this to a lot of people's attention in the past and hosted meetings and the like trying to make certain that manufactured housing folks get the necessary personnel they need out of HUD, and we appreciate the gentleman's hard work on this issue.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 53 OFFERED BY MR. TOWNS

Mr. TOWNS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 53 offered by Mr. TOWNS:

Page 256, after line 9, insert the following:

''(10) Whether the agency has conducted and regularly updated an assessment to identify any pest control problems in the public housing owned or operated by the agency and the extent to which the agency is effective in carrying out a strategy to eradicate or control such problems, which assessment and strategy shall be included in the local housing management plan for the agency under section 106.''.

Page 256, line 10, strike ''(10)'' and insert ''(11)''.

Mr. TOWNS. Mr. Chairman, in a study released last week, scientists reported that children who are allergic to cockroaches and heavily exposed to other insects were three times more likely to be hospitalized than other asthmatic youth. Many of these youngsters live in the poorest areas of our Nation, areas with a high concentration of public housing units.

In response to the findings of this study, I rise today to offer an amendment which will help to save the lives of many asthmatic children who live in public housing. We all know that asthma is one of the most common chronic childhood diseases and we know now that there is a strong link between cockroaches and asthma. According to the New England Journal of Medicine, cockroaches cause one quarter of all asthma in inner cities. Asthma is increasing in cities and in suburbs, but it is especially bad in our inner cities.

My amendment would permit the Secretary to provide for assessments to identify any pest control programs and evaluate the performance of public housing agencies as it relates to the eradication or control of the pest problem in public housing.

This year in the Committee on Commerce we have had numerous hearings on ozone and particulate matter and its possible effects on children with asthma. As we try to find reasonable solutions to this environmental issue, let us take this opportunity to solve a problem that we know is a major cause of asthma in inner city children.

I would also like to point out that in 1990, and we are spending a lot more now than then, that we spent $6.2 billion in terms of dealing with asthma. Now that we know that cockroaches have a lot to do with it, we will be able to save some money. So I am hoping that my colleagues will join me in supporting this amendment because this is a money-saving amendment that also makes it possible to improve the quality of life for so many people.

☐ 1645

I urge the adoption of this amendment because it saves money and it also protects lives and improves the quality of health.

Mr. LAZIO of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from New York [Mr. TOWNS] for offering this amendment. It is in response, I believe in part, certainly to the experiences of the gentleman in traveling around various urban areas and also to the recent articles that have been published with respect to the incidence of asthma among young people, among children in particular, who have been in contact with cockroaches. The very fact that certain housing developments have infestations of cockroaches and other pests, and I have been in some of the units where there has been what can only be described as sort of a proliferation of these pests where they are overrunning the unit. It is unbelievable that in America we tolerate this, but it is also a reflection of the fact that there has been some very poor performance on the part of certain housing authorities in ensuring that this is taken care of.

Although I compliment the gentleman, we should not need to have legislation in order to deal with this problem. This should be expected in terms of the performance of the housing authorities to ensure that there are healthy and sanitary conditions in these units. In fact, this is a significant problem. It is a significant problem, especially among inner city populations, but not only among inner city populations.

Therefore, it is entirely appropriate that the gentleman offers this amendment, that this subject be part of the evaluation that takes place when we determine how well a housing authority is doing in discharging its basic duties. I offer my basic support and expect to be voting in favor of this amendment.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want my colleagues to know that my good friend from New York, in promoting the so-

called RADAC this evening, has once again shown that he is interested in cleaning up the house. The gentleman from New York [Mr. TOWNS] has always been dedicated to serving the needs of some of the very poor people in his district he has very, very well represented and fought for here in the Congress. He is a close friend of mine, someone whose work I deeply admire. I appreciate the fact that he is trying to make sure that people who live in public housing are not forced to live in the conditions that all too often find themselves infested with cockroaches. Once again leading the charge on cleaning up the house is the gentleman from New York [Mr. TOWNS].

The CHAIRMAN pro tempore [Mr. LAHOOD]. The question is on the amendment offered by the gentleman from New York [Mr. TOWNS].

The amendment was agreed to.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word to join in a colloquy with the gentleman from New York [Mr. LAZIO], the chairman.

Mr. Chairman, I am very concerned about where we go on section 8 project housing. As we have reviewed this issue in the Committee on the Budget over the last several years, it probably presents one of the toughest issues facing Congress. Left unchecked, section 8 contracts will deplete significantly our HUD funds. I did take to the desk an amendment that would have limited subsidies to section 8 housing contracts that were in excess of 120 percent of the fair market rental rates. The fact is that we need legislation that will end excessive taxpayer subsidies to landlords and bring back into line these excessive subsidies of rents.

We have made many contractors and landlords millionaires while shortchanging low income renters and the American taxpayer. We need legislation that will end excessive taxpayer subsidies to landlords and bring back into line excessive subsidized rents. Out-of-wack rents that Uncle Sam pays must be brought into line with what everyone else pays.

These out-of-wack rents for section 8 assisted housing, often are more than twice as high as fair market rents. In Las Vegas, the average federally assisted apartment is $820, while the private market rate is $380. Section 8 project owners have hit the jackpot here. In Pittsburgh, the comparison is $773 to $397. In Detroit, it's $751 to $479.

Expiring subsidy contracts on FHA insured section 8 project-based properties is one of the toughest issues facing Congress. Let unchecked section 8 contracts will deplete all HUD funds for affordable housing and community development in a few years. Equally important is the portfolio restructuring—thousands of families are at risk of losing affordable housing.

This year a record number of project-based and tenant-based section 8 contracts will expire. And between 1998 and 2002 section 8 budget authority will need to almost double from $9.2 billion to $18.1 billion. By 2002, approximately 2.7 million units or over 5 million low-income individuals will be affected.

PORTFOLIO RESTRUCTURING

The Congress and the administration are working together to reform section 8 FHA insured housing units. Unfortunately, the value of many properties in the insured section 8 portfolio is lower than the actual mortgages on the properties. Four objectives should be paramount—

First, reducing the Federal Government's exposure to default, waste, and other expenses;

Second, restructuring should be fair to the taxpayer;

Third, insuring peace of mind and security for current residents of section 8 housing; and

Fourth, ending rent subsidies that are higher than fair market value.

LEGISLATIVE ACTION NEEDED

I have suggested limiting Federal payments to 120 percent of fair market rents and giving HUD authority to renegotiate section 8 mortgages. We need to provide tax provisions that allow section 8 owners to not be penalized, and insure that owners agree in exchange to preserve affordable units for low-income families.

I would just like to inquire of the chairman of what he sees as the progress of legislation dealing with this issue, since the bill before us today does not deal with that issue.

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, as the gentleman realizes, this problem was created not last year or 2 years ago or 5 years ago, but over 20 years ago when the section 8 program was created. At that time the Federal Government, in its infinite wisdom to encourage people to invest in low-income housing and develop housing that moved away from public housing to a more appropriate blend of private and public partnership, created the section 8 program.

Unfortunately, when they created that program, we ended up on both sides of the deal, so to speak. By that I mean that we guaranteed mortgages through the FHA fund at the Federal Government for 40 years, but we guaranteed cash flow through the section 8 program for 20 years to the owners. So we are on both ends of the deal. To the extent that we rachet down the annual costs to keep up the units precipitously, which I believe we all would like, I certainly would like to see that happen, we risked that certain of these properties would end up in default as owners simply walk away from them, because these loans are guaranteed 100 cents on the dollar by the Federal Government. That simply means that the Federal Government would receive the property back and would be stuck for the entire bill because it would be responsible for repaying the bank for any money that is owed because we have guaranteed that mortgage. It is an enormous problem, I would say to the gentleman, because we have at-risk people there, we have seniors and disabled, we have people who are very vulnerable who are in section 8 project-based assistance where apartments are subsidized. There is an effect on the community in terms of stabilization, and there is a potential effect on assessments in the area as a poorly maintained property could have a very deleterious effect on the surrounding community.

Mr. SMITH of Michigan. If I can reclaim my time for a question, is there a timetable? Does the gentleman plan to bring out a bill dealing with this problem?

Mr. LAZIO of New York. I would say to the gentleman, bills have already been introduced to deal with this problem. There is one bill that has been introduced by myself at the request of the administration which I think has some merit, that we have some disagreements with, but I think is appropriate in the sense that it moves toward the same themes of mixed income that we have been talking about in the context of H.R. 2, the bill before us today.

There is another bill that has been introduced by the gentlewoman from Ohio [Ms. PRYCE] and the gentleman from Virginia [Mr. MORAN] that seeks to deal with this. My staff in working with the Senate has been working on this for months. It is a very difficult problem in the sense that there are tax consequences involved in this, there are potential issues of phantom income, there are potential consequences to the community in terms of assessments and tax bases. There are States involved in this program through risk sharing. Their ability to be properly rated is affected. It is a very, very complex problem that we want to completely understand. We are hampered, I would say to the gentleman, by an unbelievable lack of data on the part of HUD in order to make reasonable assumptions to have good policy.

Mr. SMITH of Michigan. I thank the gentleman.

AMENDMENT NO. 54 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 54 offered by Mr. SMITH of Michigan:

Page 294, strike line 5 and all that follows through page 297, line 4, and insert the following:

SEC. 622. PET OWNERSHIP BY ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 227 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r–1) is amended to read as follows:

"SEC. 227. PET OWNERSHIP BY ELDERLY PERSONS AND PERSONS WITH DISABILITIES IN FEDERALLY ASSISTED RENTAL HOUSING.

''(a) RIGHT OF OWNERSHIP.—A resident of a dwelling unit in federally assisted rental housing who is an elderly person or a person with disabilities may own common household pets or have common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the owner of the federally assisted rental

housing and providing that the resident maintains the animals responsibly and in compliance with applicable local and State public health, animal control, and anticruelty laws. Such reasonable requirements may include requiring payments of a nominal fee and pet deposit by such residents owning or having pets present, to cover the operating costs to the project relating to the presence of pets and to establish an escrow account for additional such costs not otherwise covered, respectively. Notwithstanding section 225(d) of the Housing Opportunity and Responsibility Act of 1997, a public housing agency may not grant any exemption under such section from payment, in whole or in part, of any fee or deposit required pursuant to the preceding sentence.

''(b) PROHIBITION AGAINST DISCRIMINATION.—No owner of federally assisted rental housing may restrict or discriminate against any elderly person or person with disabilities in connection with admission to, or continued occupancy of, such housing by reason of the ownership of common household pets by, or the presence of such pets in the dwelling unit of such person.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) FEDERALLY ASSISTED RENTAL HOUSING.—The term 'federally assisted rental housing' means any multifamily rental housing project that is—

''(A) public housing (as such term is defined in section 103 of the Housing Opportunity and Responsibility Act of 1997);

''(B) assisted with project-based assistance pursuant to section 601(f) of the Housing Opportunity and Responsibility Act of 1997 or under section 8 of the United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of the Housing Opportunity and Responsibility Act of 1997);

''(C) assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

''(D) assisted under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act);

''(E) assisted under title V of the Housing Act of 1949; or

''(F) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act.

''(2) OWNER.—The term 'owner' means, with respect to federally assisted rental housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing (including a manager of such housing having such right).

''(3) ELDERLY PERSON AND PERSON WITH DISABILITIES.—The terms 'elderly person' and 'persons with disabilities' have the meanings given such terms in section 102 of the Housing Opportunity and Responsibility Act of 1997.

''(d) REGULATIONS.—Subsections (a) through (c) of this section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued no later than the expiration of the 1-year period beginning on the date of the enactment of the Housing Opportunity and Responsibility Act of 1997 and after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).''.

AMENDMENT NO. 54, AS MODIFIED, OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I ask unanimous consent that the changes at the desk to that amendment be accepted as the amendment under consideration.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 54, as modified, offered by Mr. SMITH of Michigan:

Page 294, strike line 5 and all that follows through page 297, line 4, and insert the following:

SEC. 622. PET OWNERSHIP BY ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 227 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r–1) is amended to read as follows:

''SEC. 227. PET OWNERSHIP BY ELDERLY PERSONS AND PERSONS WITH DISABILITIES IN FEDERALLY ASSISTED RENTAL HOUSING.

''(a) RIGHT OF OWNERSHIP.—A resident of a dwelling unit in federally assisted rental housing who is an elderly person or a person with disabilities may own common household pets or have common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the owner of the federally assisted rental housing and providing that the resident maintains the animals responsibly and in compliance with applicable local and State public health, animal control, and anticruelty laws. Such reasonable requirements may include requiring payment of a nominal fee and pet deposit by such residents owning or having pets present, to cover the operating costs to the project relating to the presence of pets and to establish an escrow account for additional such costs not otherwise covered, respectively. Notwithstanding section 225(d) of the Housing Opportunity and Responsibility Act of 1997, a public housing agency may not grant any exemption under such section from payment, in whole or in part, of any fee or deposit required pursuant to the preceding sentence.

''(b) PROHIBITION AGAINST DISCRIMINATION.—No owner of federally assisted rental housing may restrict or discriminate against any elderly person or person with disabilities in connection with admission to, or continued occupancy of, such housing by reason of the ownership of common household pets by, or the presence of such pets in the dwelling unit of, such person.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) FEDERALLY ASSISTED RENTAL HOUSING.—The term 'federally assisted rental housing' means any multifamily rental housing project that is—

''(A) public housing (as such term is defined in section 103 of the Housing Opportunity and Responsibility Act of 1997);

''(B) assisted with project-based assistance pursuant to section 601(f) of the Housing Opportunity and Responsibility Act of 1997 or under section 8 of the United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of the Housing Opportunity and Responsibility Act of 1997);

''(C) assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

''(D) assisted under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston—Gonzalez National Affordable Housing Act);

''(E) assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

''(F) assisted under title V of the Housing Act of 1949; or

''(G) insured, assisted, or held by the Secretary of a State or State agency under section 236 of the National Housing Act.

''(2) OWNER.—The term 'owner' means, with respect to federally assisted rental housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing (including a manager of such housing having such right).

''(3) ELDERLY PERSON AND PERSON WITH DISABILITIES.—The terms 'elderly person' and 'persons with disabilities' have the meanings given such terms in section 102 of the Housing Opportunity and Responsibility Act of 1997.

''(d) REGULATIONS.—Subsections (a) through (c) of this section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued not later than the expiration of the 1-year period beginning on the date of the enactment of the Housing Opportunity and Responsibility Act of 1997 and after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).''.

Mr. SMITH of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SMITH of Michigan. Mr. Chairman, this is at the very least a sensitive amendment. I think the question is not whether or not we support pets. The question is: Should we pass a new Federal law that mandates an extension and expansion of existing law that pets be allowed in all subsidized housing?

Currently the law allows pets for individuals that are senior citizens and individuals that are disabled citizens, and the bill before us expands that to every renter in every subsidized housing.

I think the question before us is should the Federal Government pass a law making it less attractive for local landlords to participate in housing programs for low income to the extent that our mandates under Federal law limit the number of people willing to pursue our goal of providing affordable housing for individuals.

Again, I would remind my colleagues that the bill before us expands current law tenfold. My proposed amendment, in effect, continues the existing law that pets be allowed for senior citizens and for the disabled. It actually expands the number of seniors and disabled that would be allowed to have pets. I am suggesting to my colleagues that we should not so drastically expand present law with strong arm mandates of Federal Government. Applying so many regulations and so many rules, discourage many local landlords from participating in a program to provide low-income housing. We acknowledge that it is advisable to allow pet

ownership in housing projects, but that decision deserves local input.

In the private sector, pets are often allowed. It is reasonable to assume that all of those affordable housing facilities that can accommodate pets will accommodate pets because it is reasonable, it is often healthful and it is the desire of those renters to have that kind of freedom.

So Mr. Chairman, I would hope that we consider passing legislation that leaves the law substantially as it is and does not so greatly expand that law with more mandates from Washington.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we went through an extended debate on this issue last year. I appreciate the fact that the gentleman from New York [Mr. LAZIO], the chairman, has seen the light and I think recognizes that the issue of whether or not we ought to be able to have pets in our subsidized housing or public housing is one that really ought to be left up to the individual resident.

I think, after an enormously informative and entertaining debate last year, the Congress overwhelmingly endorsed that policy; and I think the good chairman has seen fit to include the expanded policy in the underlying bill and it is something that I believe most Members of the House strongly endorse.

My understanding is that the amendment actually would, in some difference to the way it was described, would actually expand to public housing as well as section 8. Current law, obviously, is only in the public housing, it does not include the section 8 portion. But I do think that this is an issue that all families and people, whether they are residents of public housing, private housing, or any housing, can recognize some wonderful benefits of having a dog or a cat or a fish, everything but a cockroach, according to the gentleman from New York [Mr. TOWNS].

So I think what we ought to do here is try to make certain that we have an expansive policy on this issue. I do not think that there is any clear reasoning why we should not allow people to have whatever reasonable pets they want.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, it is not a question that does not seem to me as allowing people to have those pets. What it is is a mandate that every landlord has to allow regardless of the facility, regardless of the conditions, that those tenants have a pet if they want a pet. So the latitude of describing that pet is also broad.

I would also like to call to the attention of my colleague, the gentleman from Massachusetts [Mr. KENNEDY], that I did not intend to call for a RECORD rollcall vote on this. I think there is a feeling that if you love a pet, somehow you are going to say there should be a Federal mandate that should require the landlords to allow pets.

Mr. KENNEDY of Massachusetts. Mr. Chairman, reclaiming my time, I appreciate the gentleman's clarification on the issue. I would just suggest that if the landlords wanted the tenants well enough, they ought to be willing to accept the pets as well.

There are provisions that allow for how those pets would be treated and under what terms and conditions are allowed under the legislation that has been proposed. I very much appreciate Chairman LAZIO's efforts on this issue.

I think, in particular, I want to acknowledge the efforts of the gentlewoman from New York [Mrs. MALONEY], who I think the Chairman would acknowledge was really the driving force behind a lot of these policy changes and someone who, although she cannot be on the floor at the moment, I think strongly supports the chairman's position on this issue. I look forward to moving on to other issues as quickly as possible.

□ 1700

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I just wanted to mention obviously this particular issue was debated thoroughly last year, and I know the gentleman from Massachusetts recalls my position on this, but the House has worked its will, and I respect that and have reflected both the act of last year in approving the amendment on the floor and a sort of sense of fairness that, if we are going to allow that in public housing, if we are going to allow pets in public housing, then so should people in section 8 struggle with that same problem.

Mr. KENNEDY of Massachusetts. Or solution.

Mr. LAZIO of New York. Or solution.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. SMITH].

The amendment, as modified, was rejected.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

Mr. DAVIS of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS of Illinois: Page 275, after line 17, insert the following:

''(g) OPTION TO EXEMPT APPLICABILITY OF CERTAIN REQUIREMENTS.—If the Secretary takes possession of an agency or any developments or functions of an agency pursuant to subsection (b)(2) or has possession of an agency or the operational responsibilities of an agency pursuant to the United States Housing Act of 1937 (as in effect before the repeal under section 601(b) of this Act), the Secretary may provide that, with respect to such agency (or the Secretary acting in the place of such agency), the public housing developments and residents of such agency, and the choice-based housing assistance provided by the agency and the assisted families receiving such assistance, as appropriate, the following provisions shall not apply:

''(1) COMMUNITY WORK.—The provisions of section 105(a) (relating to community work), any provisions included in a community work and family self-sufficient agreement pursuant to section 105(d) regarding such community work requirements, and any provisions included in lease pursuant to section 105(e) regarding such community work requirements.

''(2) TARGET DATE FOR TRANSITION OUT OF ASSISTED HOUSING.—The provisions of section 105(b) (relating to agreements establishing target dates for transition out of assisted housing) and any provisions included in a community work and family self-sufficiency agreement pursuant to section 105(d) regarding such target date requirements.

''(3) MINIMUM RENTS.—The provisions of sections 225(c) and 322(b)(1) (regarding minimum rental amounts and minimum family contributions, respectively).''.

Page 275, line 18, strike ''(g)'' and insert ''(h)''.

Mr. DAVIS of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Chairman, today I rise on behalf of a constituency that during the past few weeks we have heard a great deal about but very little from, and as I sat watching and listening to the debate, as I listened to many of the myths and stereotypes of poor people which have sprung up because their voices often are not heard in the great decision and influence making centers of our society, I wondered why. As I sat and watched and listened, I found myself wondering why the gallery was not filled with poor people and with advocates for the poor, with lobbyists pushing their position. I wondered why there were not thousands of people surrounding the Capitol or holding meetings and rallies in public housing developments throughout the land.

Then it occurred to me that public housing residents are oftentimes easy targets, oftentimes poor, uneducated, unemployed, unskilled, unorganized, unregistered, underfed, undernourished and physically segregated. Therefore, many of the people see no need to challenge the myths, stereotypes, preconceptions, misconceptions and erroneous notions about who they are and how they live in public housing.

As my wife and I were having Mother's Day dinner on Sunday, we met a lady who was helping to serve. She was bubbling over with enthusiasm and told us that her daughter had just graduated from SIU, Southern Illinois University, with a law degree. Then she said that she lived in Cabrini Green Housing Development and that she was proud of all her children. Her son had earned a doctorate degree and was

teaching. Another son was working at the Post Office, and another one at Northwestern Hospital, all raised in Cabrini Green.

So, Mr. Chairman, life for many residents is more than an 8-second sound bite on the evening news. Public housing residents do not all belong to gangs, are not all unemployed, do not all sit around daily living the good life, sleeping late, eating ham hocks, doing drugs and watching Oprah. They are not all lazy, shiftless and immoral. They do have commendable values and a sense of community.

Having created a stereotypical, fantasized world, afflicted with fantasy problems, it becomes easy to design fantasy solutions if we have already determined that public housing residents live in public housing because they do not want to work and have nothing to do all day. Then it makes sense and is easy to prescribe a little therapeutic required volunteerism as a solution.

Why then should we be concerned about the increase in numbers of people who are condemned to a career as a temporary worker without benefits or minimum wage workers, people who work every day and still need public help?

If my colleagues think that public housing residents are addicted to free housing, then it makes perverted sense to require that they simply cut it out, just say no. If my colleagues feel that people who live in public housing are just social misfits, then they believe that they can be improved by getting rid of them, just put them out.

We have a public housing system which for a variety of reasons, none of which are addressed in H.R. 2, we have a public housing system which has often failed to meet the needs of residents or the needs of our Nation. It has become commonplace to proclaim that the problem is with too much government, that government is too big, it helps the poor too much, that public housing residents have their hands out. When we hand out $150 billion in corporate welfare each year, we do not call it welfare or handouts. We call it stimulating the economy.

H.R. 2 demands public service from public housing residents. Fine. But let us also demand some public services from those receiving corporate welfare. H.R. 2 demands personal responsibility contracts from public housing residents. Fine. But let us also demand written contracts detailing how those receiving corporate welfare would get out of the public trough. H.R. 2 demands higher minimum rents from those in public housing. Fine. But let us also develop minimum social paybacks from those receiving corporate welfare.

Mr. Chairman, our society, our economy grows strongly in direct proportion to how well we involve every member in the productive process. Let us be fair. Let us have a uniform set of rules for everyone.

Mr. Chairman, this amendment is designed to give public housing authorities the flexibility to make their own individual decisions about whether or not to implement the most onerous portions of H.R. 2. I think it is a good way to give those individuals who have been most abused an opportunity for redress.

Mr. LAZIO of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I could not think of a better example of why we believe in community service and why we believe in the maintenance of H.R. 2 of mixed income and removing the work disincentives that are in current law of creating the incentives for entrepreneurial activity than Chicago itself.

Now, it is true that throughout the entire Nation virtually every community, especially communities that are particularly underserved or that are particularly challenged by poverty, will benefit under the terms of H.R. 2. But in Chicago, they stand probably to gain the most.

I just want to refer, if I can, attention and recommend to the Members a recent report which I would be glad to make available to any Member who is interested, and it is from the Institute of Metropolitan Affairs of Roosevelt University, and it has to do with the ranking of the poorest neighborhoods in America, and it is interesting because 11 of the 15 poorest communities in the Nation are in Chicago. One might think if they posed that question they would find it somewhere in the deep South or some State that has a very low median income or some other place that one does not ordinarily think of when they think of the Gold Coast in Chicago and one of the Nation's largest cities. But in fact there has been exceptional failure in terms of addressing poverty in Chicago, and it has been a combination of things, a combination of looking the other way, of tolerating failure, of not seizing the housing authority when we should have done it over a decade ago, of moving slowly, of looking the other way.

In just one of these examples, Stateway Gardens in Chicago had a 42 percent drop in per capita income in the 10 years between 1979 and 1989, 42 percent drop in income in what was already one of the poorest of the poor neighborhoods. The consequence of that has been that we continue to concentrate poverty, that we create environments where virtually everybody is unemployed, where there are no working role models, where we do not have any services.

I am familiar with many of these neighborhoods in Chicago that are listed in the survey because I have been there, and I will tell my colleagues that the consequences of our policy have been that there are no supermarkets, that there are no banks, that there are no laundromats, there are no services that help keep the working poor, the working class in and around these communities that are under siege.

Mr. Chairman, this House needs to come to grips with the fact that we have failed these residents, that we have created disincentives to work and to family, that we have contributed to the pathologies that have undermined the ability to turn these communities around, and through the programs that we have in H.R. 2, not the least of which is the community service program, where we can begin to mobilize not people from Washington or the State capital or from some other State to go in from the outside and come in and pose what they think is a right solution for their own communities, but we mobilize the people in their own backyards, these same people of low income whose talents are untapped, whose potential is significant to begin to transition and transform their own communities by working with each other, by marshaling their services, by having common goals, setting objectives and making the changes; we believe in this because we know that the end of poverty will not come because of the bill that we have in this House or in the other body, we know that it will not be something that was signed into law, and we know that it will not happen because of some leader, elected leader, in the State capital or even in the city, some mayor. It will happen because of the dynamic, charismatic people in and of the community that begin to transform their own neighborhoods, their own backyards, their own buildings.

Mr. Chairman, this is the change that we are looking for, this is the change in H.R. 2, and it is well time that we stop tolerating the failure that exists in Chicago and all the other Chicagos that we have around the Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. DAVIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DAVIS of Illinois. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 133, further proceedings on the amendment offered by the gentleman from Illinois [Mr. DAVIS] will be postponed.

Are there further amendments to title VII?

Are there further amendments to the bill?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 133, proceedings will now resume on those amendments on which further proceedings were postponed on May 8 and May 9, 1997, in the following order: Amendment No. 12 offered by the gentleman from Massachusetts [Mr. KENNEDY], amendment No. 13 offered by the gentleman from Massachusetts [Mr. KENNEDY], amendment No. 25 offered by the gentleman from Minnesota

[Mr. VENTO]; also, the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] and the amendment offered by the gentleman from Illinois [Mr. DAVIS].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

PARLIAMENTARY INQUIRY

Mr. KENNEDY of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I just want to know what is happening with the suspension votes. Does that come before or after all these votes?

The CHAIRMAN. The suspension votes will be after these votes.

AMENDMENT NO. 12 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 12 offered by the gentleman from Massachusetts [Mr. KENNEDY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. KENNEDY of Massachusetts:

Page 174, line 20, insert ''VERY'' before ''LOW-INCOME''.

Page 175, line 11, insert ''very'' before ''low-income''.

Page 187, line 5, insert ''VERY'' before ''LOW-INCOME''.

Page 187, line 10, insert ''very'' before ''low-income''.

Page 187, strike lines 13 through 22 and insert the following:

(b) INCOME TARGETING.—

(1) PHA-WIDE REQUIREMENT.—Of all the families who initially receive housing assistance under this title from a public housing agency in any fiscal year of the agency, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income.

(2) AREA MEDIAN INCOME.—For purposes of this subsection, the term ''area median income'' means the median income of an area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the percentages specified in subsection (a) if the Secretary finds determines that such variations are necessary because of unusually high or low family incomes.

Page 205, line 7, insert ''very'' before ''low-income''.

Page 205, line 24, insert ''very'' before ''low-''.

Page 211, line 6, insert ''very'' before ''low-income''.

Page 214, line 1, insert ''very'' before ''low-income''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 260, not voting 11, as follows:

[Roll No 119]

AYES—162

Ackerman	Gejdenson	Mink
Allen	Gephardt	Moakley
Andrews	Gonzalez	Mollohan
Baldacci	Gordon	Nadler
Barcia	Green	Neal
Barrett (WI)	Gutierrez	Oberstar
Becerra	Hall (OH)	Obey
Bentsen	Hamilton	Olver
Berman	Harman	Owens
Berry	Hastings (FL)	Pallone
Bishop	Hilliard	Pascrell
Blumenauer	Hinojosa	Pastor
Bonior	Hooley	Payne
Borski	Hoyer	Pelosi
Boucher	Jackson (IL)	Pomeroy
Boyd	Jackson-Lee (TX)	Poshard
Brown (CA)	Jefferson	Rahall
Brown (FL)	John	Rangel
Brown (OH)	Johnson (WI)	Reyes
Capps	Johnson, E. B.	Rivers
Cardin	Kanjorski	Rodriguez
Carson	Kennedy (MA)	Rothman
Clay	Kennedy (RI)	Roybal-Allard
Clayton	Kennelly	Sabo
Clement	Kildee	Sanchez
Clyburn	Kilpatrick	Sanders
Costello	Kind (WI)	Sandlin
Coyne	Kleczka	Sawyer
Cummings	Kucinich	Scott
Davis (FL)	LaFalce	Serrano
Davis (IL)	Lampson	Skaggs
DeFazio	Lantos	Slaughter
DeGette	Levin	Snyder
Delahunt	Lewis (GA)	Spratt
DeLauro	Luther	Stark
Dellums	Maloney (CT)	Stokes
Deutsch	Maloney (NY)	Strickland
Dicks	Markey	Tanner
Dingell	Martinez	Tauscher
Dixon	Matsui	Thompson
Doggett	McCarthy (MO)	Thurman
Edwards	McDermott	Tierney
Engel	McGovern	Torres
Eshoo	McHale	Towns
Evans	McIntyre	Turner
Farr	McKinney	Velazquez
Fattah	McNulty	Vento
Fazio	Meehan	Waters
Filner	Meek	Watt (NC)
Flake	Menendez	Waxman
Foglietta	Millender-McDonald	Wexler
Ford	Miller (CA)	Weygand
Frank (MA)	Minge	Woolsey
Frost		Yates
Furse		

NOES—260

Aderholt	Christensen	Franks (NJ)
Archer	Coble	Frelinghuysen
Armey	Coburn	Gallegly
Bachus	Collins	Ganske
Baesler	Combest	Gekas
Baker	Condit	Gibbons
Ballenger	Cook	Gilchrest
Barr	Cooksey	Gillmor
Barrett (NE)	Cox	Gilman
Bartlett	Cramer	Goode
Barton	Crane	Goodlatte
Bass	Crapo	Goodling
Bateman	Cubin	Goss
Bereuter	Cunningham	Graham
Bilbray	Danner	Granger
Bilirakis	Davis (VA)	Greenwood
Bliley	Deal	Gutknecht
Blunt	DeLay	Hall (TX)
Boehlert	Diaz-Balart	Hansen
Boehner	Dickey	Hastert
Bonilla	Dooley	Hastings (WA)
Bono	Doolittle	Hayworth
Boswell	Doyle	Hefley
Brady	Dreier	Herger
Bryant	Duncan	Hill
Bunning	Dunn	Hilleary
Burr	Ehlers	Hobson
Burton	Ehrlich	Hoekstra
Buyer	Emerson	Holden
Callahan	English	Horn
Calvert	Ensign	Hostettler
Camp	Etheridge	Houghton
Campbell	Everett	Hulshof
Canady	Ewing	Hunter
Cannon	Fawell	Hutchinson
Castle	Foley	Hyde
Chabot	Forbes	Inglis
Chambliss	Fowler	Istook
Chenoweth	Fox	Jenkins
Johnson (CT)	Neumann	Shaw
Johnson, Sam	Ney	Shays
Jones	Northup	Sherman
Kaptur	Norwood	Shimkus
Kasich	Nussle	Shuster
Kelly	Ortiz	Sisisky
Kim	Oxley	Skeen
King (NY)	Packard	Smith (MI)
Klink	Pappas	Smith (NJ)
Klug	Parker	Smith (OR)
Knollenberg	Paul	Smith (TX)
Kolbe	Paxon	Smith, Adam
LaHood	Pease	Smith, Linda
Largent	Peterson (MN)	Snowbarger
Latham	Peterson (PA)	Solomon
LaTourette	Petri	Souder
Lazio	Pickering	Spence
Leach	Pickett	Stabenow
Lewis (CA)	Pitts	Stearns
Lewis (KY)	Pombo	Stenholm
Linder	Porter	Stump
Lipinski	Portman	Stupak
Livingston	Price (NC)	Sununu
LoBiondo	Pryce (OH)	Talent
Lofgren	Quinn	Tauzin
Lowey	Radanovich	Taylor (MS)
Lucas	Ramstad	Thomas
Manton	Regula	Thornberry
Manzullo	Riggs	Thune
Mascara	Riley	Tiahrt
McCarthy (NY)	Roemer	Traficant
McCollum	Rogan	Upton
McCrery	Rogers	Visclosky
McDade	Rohrabacher	Walsh
McHugh	Ros-Lehtinen	Wamp
McInnis	Roukema	Watkins
McIntosh	Royce	Watts (OK)
McKeon	Ryun	Weldon (FL)
Metcalf	Salmon	Weldon (PA)
Mica	Sanford	Weller
Miller (FL)	Saxton	White
Molinari	Scarborough	Whitfield
Moran (KS)	Schaefer, Dan	Wicker
Moran (VA)	Schaffer, Bob	Wise
Morella	Schumer	Wolf
Murtha	Sensenbrenner	Wynn
Myrick	Sessions	Young (FL)
Nethercutt	Shadegg	

NOT VOTING—11

Abercrombie	Hinchey	Skelton
Blagojevich	Kingston	Taylor (NC)
Conyers	Rush	Young (AK)
Hefner	Schiff	

□ 1734

Mr. LATHAM and Mr. GREENWOOD changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KINGSTON. Mr. Chairman, I missed rollcall No. 119, due to airplane mechanical problems. Had I been present, I would have voted ''no.''

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Chairman, I was unavoidably detained on rollcall 119. Had I been present, I would have voted ''yes.''

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further consideration.

AMENDMENT NO. 13 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on amendment No. 13 offered by the gentleman from Massachusetts [Mr. KENNEDY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KENNEDY of Massachusetts:

Page 220, strike line 12 and all that follows through line 12 on page 237 (and redesignate subsequent provisions and any references to such provisions, and conform the table of contents, accordingly).

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 153, noes 270, not voting 10, as follows:

[Roll No. 120]

AYES—153

Ackerman	Gephardt	Mollohan
Allen	Gonzalez	Nadler
Andrews	Gutierrez	Neal
Baldacci	Hall (OH)	Northup
Barcia	Harman	Oberstar
Barrett (WI)	Hastings (FL)	Obey
Becerra	Hilliard	Olver
Berman	Holden	Ortiz
Berry	Hooley	Owens
Bishop	Hoyer	Pallone
Blumenauer	Jackson (IL)	Pascrell
Bonior	Jackson-Lee (TX)	Pastor
Borski	Jefferson	Payne
Boswell	Johnson (CT)	Pelosi
Brown (CA)	Johnson (WI)	Pomeroy
Brown (FL)	Johnson, E. B.	Poshard
Brown (OH)	Kanjorski	Price (NC)
Capps	Kaptur	Rahall
Carson	Kennedy (MA)	Reyes
Clay	Kennedy (RI)	Rivers
Clayton	Kennelly	Rodriguez
Clement	Kildee	Rothman
Clyburn	Kilpatrick	Roybal-Allard
Conyers	Kind (WI)	Sanchez
Costello	Kleczka	Sanders
Coyne	Klink	Sawyer
Cummings	Kucinich	Schumer
Davis (IL)	LaFalce	Scott
DeGette	Lantos	Serrano
Delahunt	Levin	Skaggs
DeLauro	Lewis (GA)	Slaughter
Dellums	Lowey	Smith, Adam
Deutsch	Maloney (CT)	Spratt
Dingell	Maloney (NY)	Stabenow
Dixon	Manton	Stark
Doyle	Markey	Stokes
Engel	Martinez	Stupak
Ensign	Mascara	Thompson
Eshoo	McCarthy (NY)	Thurman
Etheridge	McDermott	Tierney
Evans	McGovern	Torres
Farr	McIntyre	Towns
Fattah	McKinney	Velazquez
Fazio	McNulty	Vento
Filner	Meehan	Waters
Flake	Meek	Watt (NC)
Foglietta	Menendez	Waxman
Ford	Millender-McDonald	Wexler
Frank (MA)	Miller (CA)	Weygand
Frost	Moakley	Woolsey
Furse	Mollohan	Yates
Gejdenson	Nadler	

NOES—270

Abercrombie	Bilirakis	Camp
Aderholt	Bliley	Campbell
Archer	Blunt	Canady
Armey	Boehlert	Cannon
Bachus	Boehner	Cardin
Baesler	Bonilla	Castle
Baker	Bono	Chabot
Ballenger	Boucher	Chambliss
Barr	Boyd	Chenoweth
Barrett (NE)	Brady	Christensen
Bartlett	Bryant	Coble
Barton	Bunning	Coburn
Bass	Burr	Collins
Bateman	Burton	Combest
Bentsen	Buyer	Condit
Bereuter	Callahan	Cook
Bilbray	Calvert	Cooksey
Cox	Istook	Radanovich
Cramer	Jenkins	Ramstad
Crane	John	Regula
Crapo	Johnson, Sam	Riggs
Cubin	Jones	Riley
Cunningham	Kasich	Roemer
Danner	Kelly	Rogan
Davis (FL)	Kim	Rogers
Davis (VA)	King (NY)	Rohrabacher
Deal	Klug	Ros-Lehtinen
DeFazio	Knollenberg	Roukema
DeLay	Kolbe	Royce
Diaz-Balart	LaHood	Ryun
Dickey	Lampson	Sabo
Dicks	Largent	Salmon
Doggett	Latham	Sandlin
Dooley	LaTourette	Sanford
Doolittle	Lazio	Saxton
Dreier	Leach	Scarborough
Duncan	Lewis (CA)	Schaefer, Dan
Dunn	Lewis (KY)	Schaffer, Bob
Edwards	Linder	Sensenbrenner
Ehlers	Lipinski	Sessions
Ehrlich	Livingston	Shadegg
Emerson	LoBiondo	Shaw
English	Lofgren	Shays
Everett	Lucas	Sherman
Ewing	Luther	Shimkus
Fawell	Manzullo	Shuster
Foley	Matsui	Sisisky
Forbes	McCarthy (MO)	Skeen
Fowler	McCollum	Smith (MI)
Fox	McCrery	Smith (NJ)
Franks (NJ)	McDade	Smith (OR)
Frelinghuysen	McHale	Smith (TX)
Gallegly	McHugh	Smith, Linda
Ganske	McInnis	Snowbarger
Gekas	McIntosh	Snyder
Gibbons	McKeon	Solomon
Gilchrest	Metcalf	Souder
Gillmor	Mica	Spence
Gilman	Miller (FL)	Stearns
Goode	Minge	Stenholm
Goodlatte	Mink	Strickland
Goodling	Molinari	Stump
Gordon	Moran (KS)	Sununu
Goss	Moran (VA)	Talent
Graham	Morella	Tanner
Granger	Murtha	Tauscher
Green	Myrick	Tauzin
Greenwood	Nethercutt	Taylor (MS)
Gutknecht	Neumann	Thomas
Hall (TX)	Ney	Thornberry
Hamilton	Norwood	Thune
Hansen	Nussle	Tiahrt
Hastert	Oxley	Traficant
Hastings (WA)	Packard	Turner
Hayworth	Pappas	Upton
Hefley	Parker	Visclosky
Herger	Paul	Walsh
Hill	Paxon	Wamp
Hilleary	Pease	Watkins
Hinojosa	Peterson (MN)	Watts (OK)
Hobson	Peterson (PA)	Weldon (FL)
Hoekstra	Petri	Weldon (PA)
Horn	Pickering	Weller
Hostettler	Pickett	White
Houghton	Pitts	Whitfield
Hulshof	Pombo	Wicker
Hunter	Porter	Wise
Hutchinson	Portman	Wolf
Hyde	Pryce (OH)	Wynn
Inglis	Quinn	Young (FL)

NOT VOTING—10

Blagojevich	Rangel	Taylor (NC)
Hefner	Rush	Young (AK)
Hinchey	Schiff	
Kingston	Skelton	

☐ 1744

Mr. DICKS changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KINGSTON. Mr. Chairman, I missed rollcall No. 120 due to airplane mechanical problems. Had I been present, I would have voted ''no.''

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Chairman, during consideration of H.R. 2 on the Kennedy amendment, recorded vote number 120 on Amendment #13, I inadvertently cast my vote against this amendment. On this particular vote I meant to cast a ''yes'' vote.

AMENDMENT NO. 25 OFFERED BY MR. VENTO

The CHAIRMAN pro tempore [Mr. LAHOOD]. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota [Mr. VENTO] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. VENTO: Page 244, strike line 1 and all that follows through line 8 on page 254, and insert the following:

Subtitle C—Public Housing Management Assessment Program

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 228, not voting 5, as follows:

[Roll No. 121]

AYES—200

Abercrombie	Foglietta	McDermott
Ackerman	Ford	McGovern
Allen	Frank (MA)	McHale
Andrews	Frost	McIntyre
Bachus	Furse	McKinney
Baesler	Gejdenson	McNulty
Baldacci	Gephardt	Meehan
Barcia	Gonzalez	Meek
Barrett (WI)	Goode	Menendez
Becerra	Gordon	Millender-McDonald
Bentsen	Green	Miller (CA)
Berman	Gutierrez	Minge
Berry	Hall (OH)	Mink
Bishop	Hall (TX)	Moakley
Blagojevich	Hamilton	Mollohan
Blumenauer	Harman	Moran (VA)
Bonior	Hastings (FL)	Murtha
Borski	Hefley	Nadler
Boswell	Hilliard	Neal
Boucher	Hinchey	Oberstar
Boyd	Hinojosa	Obey
Brown (CA)	Holden	Olver
Brown (FL)	Hooley	Ortiz
Brown (OH)	Hoyer	Owens
Capps	Jackson (IL)	Pallone
Cardin	Jackson-Lee (TX)	Pascrell
Carson	Jefferson	Pastor
Clay	John	Payne
Clayton	Johnson (WI)	Pelosi
Clement	Johnson, E.B.	Peterson (MN)
Clyburn	Kanjorski	Pickett
Conyers	Kaptur	Pomeroy
Costello	Kennedy (MA)	Poshard
Coyne	Kennedy (RI)	Price (NC)
Cramer	Kennelly	Rahall
Cummings	Kildee	Rangel
Danner	Kilpatrick	Reyes
Davis (FL)	Kind (WI)	Rivers
Davis (IL)	Kleczka	Rodriguez
DeFazio	Klink	Roemer
DeGette	Kucinich	Rothman
Delahunt	LaFalce	Roybal-Allard
DeLauro	Lampson	Sabo
Dellums	Lantos	Sanchez
Deutsch	Levin	Sanders
Dicks	Lewis (GA)	Sandlin
Dingell	Lipinski	Sawyer
Dixon	Lofgren	Schumer
Dooley	Lowey	Scott
Engel	Maloney (CT)	Serrano
Eshoo	Maloney (NY)	Sisisky
Etheridge	Manton	Skaggs
Evans	Markey	Slaughter
Farr	Martinez	Smith, Adam
Fattah	Matsui	Smith, Linda
Fazio	McCarthy (MO)	Snyder
Filner	McCarthy (NY)	Spratt
Flake		

Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—228

Aderholt
Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Luther
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—5

Hefner
Rush
Schiff
Skelton
Young (AK)

☐ 1754

Mr. GREEN changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. KENNEDY of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I request that the Chair could verify that the coming amendment is the one that would impose the same 8-hour per month voluntary work requirement imposed in H.R. 2 on public housing residents to investors in the section 8 project-based housing.

The CHAIRMAN pro tempore. The gentleman from Massachusetts is not stating a parliamentary inquiry.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I was wondering what the next amendment might be.

The CHAIRMAN pro tempore. The next amendment is the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] on which further proceedings were postponed and on which the noes prevailed by a voice vote, and the Chair is ready to call for a recorded vote.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I have a further parliamentary inquiry. Is that the amendment which imposes a work requirement on investors in section 8 project-based housing?

The CHAIRMAN pro tempore. The gentleman is not stating a further parliamentary inquiry, and the gentleman knows that he was not making a parliamentary inquiry.

AMENDMENT OFFERED BY MR. KENNEDY OF MASSACHUSETTS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 87, noes 341, not voting 5, as follows:

[Roll No. 122]

AYES—87

Abercrombie
Allen
Becerra
Bishop
Blagojevich
Blumenauer
Bonior
Brown (FL)
Brown (OH)
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeGette
Delahunt
Dellums
Duncan
Edwards
Evans
Fattah
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gonzalez
Green
Gutierrez
Hilliard
Hinchey
Hinojosa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kleczka
Kucinich
Lantos
Lewis (GA)
Markey
Martinez
McGovern
McKinney
Meehan
Meek
Millender-McDonald
Mink
Moakley
Neal
Oberstar
Olver
Owens
Pastor
Payne
Pelosi
Pomeroy
Rahall
Rangel
Rodriguez
Roybal-Allard
Sanchez
Sanders
Scott
Serrano
Slaughter
Stark
Stokes
Strickland
Stupak
Thompson
Tierney
Torres
Towns
Velazquez
Vento
Waters
Wynn
Yates

NOES—341

Ackerman
Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Farr
Fawell
Fazio
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)

Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Young (FL)

NOT VOTING—5

Hefner
Rush
Schiff
Skelton
Young (AK)

☐ 1805

Messrs. BERRY, KILDEE, and FARR of California changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

The CHAIRMAN pro tempore [LAHOOD]. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois [Mr. DAVIS] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 145, noes 282, not voting 6, as follows:

[Roll No. 123]

AYES—145

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blumenauer
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Harman
Hilliard
Hinchey
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Northup
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Snyder
Stabenow
Stark
Stokes
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOES—282

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Luther
Manton
Manzullo
Mascara
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—6

Gekas
Hefner
Rush
Schiff
Skelton
Young (AK)

☐ 1813

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1815

Mr. LAZIO of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know that this body will be gravely disappointed to know that this bill is nearing conclusion. I understand that all titles have been closed, is that correct, Mr. Chairman, if that is appropriate to direct that question to the Chair?

The CHAIRMAN pro tempore (Mr. LAHOOD). Title VII is open at any point.

Mr. LAZIO of New York. I would ask that after the close of title VII that I be permitted to offer a unanimous-consent request pursuant to the discussions that we have had with the gentleman from Massachusetts concerning time limitations. I will be making a motion to rise at the end of this, and we will probably resume again on Thursday to take up the substitute and to take up final passage. At that time I understand that there has been some agreement on time limitations involving the Kennedy substitute. The suggestion would be that there would be 60 minutes for the substitute, 30 minutes controlled by the gentleman from Massachusetts [Mr. KENNEDY], 30 minutes controlled by myself, and I just wanted to inquire if that was the understanding of the gentleman from Massachusetts [Mr. KENNEDY] and if he would be concurring with that time limitation.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I had spoken with the chairman's staff and we had indicated that because of the large number of speakers and because this bill has been so much fun for the last 3 weeks that we would not necessarily want to cut the debate short on Thursday morning, but we are looking forward to perhaps finding a way to achieve a limitation on

Thursday. But I would rather wait until then to determine the level of intensity on our side.

Mr. LAZIO of New York. If I could just reclaim my time, is the gentleman saying that an hour would not be an appropriate amount of time to debate the substitute?

Mr. KENNEDY of Massachusetts. I am hopeful we can reach agreement on an hour, but I would like to reserve that right until Thursday and make that determination at that time.

Mr. OXLEY. Mr. Speaker, I rise today in support for H.R. 2, the Housing Opportunity and Responsibility Act. As a cosponsor of this important legislation I believe that it will go a long way toward reforming our current public housing system. I am particularly enthusiastic about Title IV, the Home Rule Flexible Grant Option, portion of the overall legislation. The provisions included in Title IV would provide local government leaders with the flexibility to implement new locally developed proposals for meeting the specific housing needs of their communities.

Whereas under our current system Public Housing Authorities administer all aspects of sometimes highly regulated Federal housing programs, this new grant would give interested localities the flexibility to implement new innovative programs targeted to meet the housing needs of their own citizens.

In the city of Lima, a town in my district, a situation has developed recently that has divided local housing authorities and local government leaders. The situation began when the city's Public Housing Authority went forward with plans to build 28 scattered-site low-income public housing units. With city officials contending that these units are not scattered, and in fact concentrated in one particular area of the city, they filed suit contending that the Public Housing Authority broke Ohio law by not presenting the project to the Lima Planning Commission before going ahead with construction. In an effort to bring both sides together and resolve their differences, at my request, a meeting was set up between HUD officials and officials from the Lima City Council. In fact, a public meeting was also held on this issue, again with HUD officials being present. While HUD officials soon agreed with city officials that indeed they had some legitimate concerns on the 28 scattered-site housing units being congested in one area, ultimately no concrete resolutions came out of these meetings.

Unfortunately, the situation worsened. With no resolution from the meetings, and with the city proceeding with the lawsuit, city officials soon found themselves receiving a letter of warning from HUD. The letter stated that as a result of the city's lawsuit against the Public Housing Authority, the department would therefore be withholding funds for both the city's Community Development Block Grant and HOME Programs.

Clearly this situation should never have developed to the point where HUD bureaucrats would feel the need to threaten to withhold funds for programs that have absolutely nothing to do with the city's initial lawsuit. In fact, had all sides sat down and actually addressed each others concerns in the first place, all of this could have possibly been resolved.

It is this exact situation that Title IV of H.R. 2 aims to address. By encouraging city officials and Public Housing Authorities to work together to meet the housing needs of their community, conflicts such as the one taking place in Lima today can be averted. While both sides in this dispute clearly have the best interests of community in mind, it is the current housing program framework itself that has pitted both sides against one another. It is clear to me that the Home Rule Flexible Grant Option provisions in this bill would help to encourage greater cooperation between Public Housing Authorities and local elected officials.

As one who has witnessed first-hand the negative consequences of having local Public Housing Authorities and local government leaders work at odds with each other, it is clear to me that this new approach is needed. For these reasons I urge all Members to support passage of the Housing Opportunity and Responsibility Act.

Mr. LAZIO of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. KOLBE] having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 590

Mr. BLUMENAUER. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. JOHNSON] be removed as a cosponsor of H.R. 590.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 695

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 695.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 5, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 3, not voting 10, as follows:

[Roll No. 124]

YEAS—420

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica

Millender-McDonald	Ramstad	Spence
Miller (CA)	Rangel	Spratt
Miller (FL)	Regula	Stabenow
Minge	Reyes	Stark
Mink	Riggs	Stearns
Moakley	Riley	Stenholm
Molinari	Rivers	Stokes
Mollohan	Rodriguez	Strickland
Moran (KS)	Roemer	Stump
Moran (VA)	Rogan	Stupak
Morella	Rogers	Sununu
Murtha	Rohrabacher	Talent
Myrick	Ros-Lehtinen	Tanner
Nadler	Rothman	Tauscher
Neal	Roukema	Tauzin
Nethercutt	Roybal-Allard	Taylor (MS)
Neumann	Royce	Taylor (NC)
Ney	Ryun	Thomas
Northup	Sabo	Thompson
Norwood	Salmon	Thornberry
Nussle	Sanchez	Thune
Oberstar	Sanders	Thurman
Obey	Sandlin	Tiahrt
Olver	Sanford	Tierney
Ortiz	Sawyer	Torres
Owens	Saxton	Towns
Oxley	Scarborough	Traficant
Packard	Schaefer, Dan	Turner
Pallone	Schaffer, Bob	Upton
Pappas	Scott	Velazquez
Parker	Sensenbrenner	Vento
Pascrell	Serrano	Visclosky
Paxon	Sessions	Walsh
Payne	Shadegg	Wamp
Pease	Shaw	Waters
Pelosi	Shays	Watkins
Peterson (MN)	Sherman	Watt (NC)
Peterson (PA)	Shimkus	Watts (OK)
Petri	Shuster	Waxman
Pickering	Sisisky	Weldon (FL)
Pickett	Skaggs	Weldon (PA)
Pitts	Skeen	Weller
Pombo	Slaughter	Wexler
Pomeroy	Smith (MI)	Weygand
Porter	Smith (NJ)	White
Portman	Smith (OR)	Whitfield
Poshard	Smith (TX)	Wicker
Price (NC)	Smith, Adam	Wise
Pryce (OH)	Smith, Linda	Wolf
Quinn	Snowbarger	Woolsey
Radanovich	Snyder	Wynn
Rahall	Solomon	Yates
	Souder	Young (FL)

NAYS—3

Bateman	LaHood	Paul

NOT VOTING—10

Becerra	Pastor	Skelton
Blagojevich	Rush	Young (AK)
Gutierrez	Schiff	
Hefner	Schumer	

□ 1828

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, on rollcall No. 124, I was detained at a meeting with Mr. Bob Nash of the White House personnel office. Had I been present, I would have voted ''yea.''

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KOLBE). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. HULSHOF] is recognized for 5 minutes.

[Mr. HULSHOF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REPUBLICAN TACTICS HURT WEAKEST OF OUR CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, this week the Republican Congress will officially take food out of the mouths of babies when they follow the lead of the House Committee on Appropriations. Last week this Republican-controlled committee cut the women, infants and children nutrition program. If the Congress follows their lead, many poor, helpless, underrepresented and overly persecuted American citizens will be without the necessities of life.

Mr. Speaker, the full House of Representatives will soon vote on this bill which, if passed, will cause a cut in WIC nutrition programs of 180,000 women, infants and children who would have to go without food and medicine. These proposed cuts in this program are not fancy frills, but basic staples of life: food and medicine.

I understand the desire of certain Members of this Congress who believe in cutting programs to balance the budget. However, let me assure my colleagues that this is one of the most noble Federal programs that we have ever funded.

Mr. Speaker, I would understand the opposition if the WIC Program were a typical pork barrel project, but it is not. It is not even the equivalent of the recent legislative luxuries proposed by the Republican's own plan to grant a monstrously large and obscene tax break for the Nation's most wealthy.

The WIC Program allocates nothing but bottom line necessities of life: food, nutritious programs and, yes, medicine, the very essential necessities of life.

What on Earth could be objectionable about these programs? It is not a program for the able, it is not a program that feeds foreign kids. It is a program that feeds hungry children here in America. It is a program that protects pregnant women here in America. It is a program that benefits Americans.

Mr. Speaker, these infants who are on the WIC Program do not need to be hurt or harassed by this Congress. They need help. Not only is the House Committee on Appropriations' decision cruel and unusual, but it is ill-advised.

The Center on Budget and Policy Priority, their executive director, Mr. Robert Greenstein stated:

The Appropriation Committee's decision to allow WIC participation levels to be cut by 180,000 low-income women, children and infants is extremely ill-advised.

□ 1845

To agree with cutbacks to the number of poor women and children who are aided in what is probably known as the singly most successful program which is run in any level of our government is hard to understand.

It may be hard for him to understand, but those of us who have been around in politics for a while understand the realities of the Republican strategy: To take the food out of the mouths of those 180,000 men and women, little kids, to give a tax break, once again, to the wealthy.

My friends on the radical Republican side of this Congress are misjudging, once again, the American people, as they did with the Medicare and Medicaid cuts of last year. I do not believe our citizens will sit by while the service of big business and the wealthy, the Republicans, send 180,000 poor people into the streets begging for food and medical care. It should not happen here in America.

How many more children must suffer before we retain the moral conscience of our Nation? How many more babies must cry through the night before we remember the golden rule? How many more mothers will go full term through a pregnancy without seeing a physician?

The weak, the poor, the least of those in our society are those we should always protect. It is the cornerstone of our Nation to look out for those who are lost and those who are least able to fend for themselves. If we have feelings, if we are compassionate, if we have a heart, we will take care of our young. Please vote to take care of the infants, the pregnant women, and the little kids.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 5 minutes.

[Mr. NEUMANN addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

DEMOCRATS LAUNCH HEALTH PLAN FOR CHILDREN, WHILE GOP LEADERS DENY CHILDREN BASIC NUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, last month Democrats urged Republican leaders to move forward on legislation to help provide health care coverage for America's uninsured children by Mother's Day. Instead of developing a plan for the more than 10 million uninsured children, Republican leaders have been outspoken in denying milk, formula, and other basic nutrition needs for approximately 180,000 children in the Women, Infants and Children, or WIC Program, that my colleague from Alabama just previously spoke about.

Since the Republicans have failed in developing a plan to assist the Nation's

uninsured children, Democrats have taken the initiative and have put together a children's health care proposal which we unveiled last week.

The proposal is called the Families First Health Care Coverage for Children, and it seeks to help those working families who do not currently qualify for Medicaid, because they are above the Federal poverty level, but are nevertheless without health insurance for a number of reasons.

I would like to discuss, Mr. Speaker, this plan right now. It is basically a three-pronged approach. First, it encourages, but does not mandate, States to expand the Medicaid floor for health insurance for low-income children, while assisting local communities in developing outreach to the 3 million children who are uninsured, but already do qualify for Medicaid assistance. Now, what we found is that a lot of children are out there and qualify under the current Medicaid law, but are not taking advantage of it, so we do need an outreach program.

Most children in families at low income levels currently receive their health care from the Medicaid program, and we are just trying to ensure that these low-income families do not fall through the cracks.

The second prong of the Democrats' families first children's health care proposal creates a matching grant program for the States, and it is called Medikids. It is a grant program that will be targeted to those families, if we use a family of four, who make between $16,000 and $48,000 a year. Medikids will give the States the flexibility and the additional moneys they need to be creative in meeting the needs of a State's uninsured children's population.

Now, when I talk about flexibility, States can form public-private partnerships, use the money to build upon existing State programs and to create new initiatives unique to the State's own needs. Again, Medikids is voluntary to the States, but in order for States to qualify for the Medikids matching grant they must provide Medicaid coverage for pregnant women up to 185 percent of the poverty level and children through age 18 of families up to 180 percent of the poverty level, or $16,000 in a family of four.

So what we are doing here, Mr. Speaker, is expanding Medicaid, the floor of the Medicaid Program, and then providing matching grants so States can go beyond that up to families of four with incomes of $48,000.

Finally, I wanted to say that our third prong, which basically came from the gentlewoman from Oregon [Ms. FURSE], who is part of our health care task force, this would seek private health insurance reforms and make it easier for families of all income levels to provide for their children's health care needs. It is not income-based.

This third prong would require insurers to offer group-rated policies for children only, which means a relatively inexpensive health insurance policy. Additionally, families who qualify for health insurance under current law, the COBRA law, that cannot afford the premium for the entire family, will have the option to purchase a children's only health insurance policy. This last portion, again that was provided and suggested and is in a bill that the gentlewoman from Oregon [Ms. FURSE] has introduced, basically benefits working families of all income levels.

Mr. Speaker, I have to say that this Democratic proposal can all be achieved within the context of the balanced budget agreement that was announced by the President a few weeks ago. Democrats, I believe, Mr. Speaker, are moving forward because Republicans in effect are lacking leadership in this arena of children's health. I once again have to point out that instead of seeking a solution to children's health care, we see the Republican leadership determined to stop full funding of the WIC Program that their own Governors have requested.

Mr. Speaker, I just want to point out, the Democrats from last year, when we put forward our families first agenda, were trying to respond to the real needs of the average American family, and I think that is what this health care initiative does again. It addresses the fact that we have so many children out there who are not covered, who are responding to that need, and we hope we can get bipartisan support for this initiative.

CHRONIC FATIGUE IMMUNE DYSFUNCTION SYNDROME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I rise today to ask my colleagues to join with me in recognizing that yesterday, Monday, May 12, was International Chronic Fatigue Immune Dysfunction Syndrome Awareness Day.

We in the Congress must realize the need to heighten public awareness of this most debilitating, yet still largely ignored, disease that caring medical experts believe strikes a conservative number of Americans, 2 to 5 million annually, and an estimated 11,000 individuals in New York, New Jersey, and Connecticut.

First brought to the public's attention back in 1984 during an outbreak at Lake Tahoe, NV, the number of chronic fatigue sufferers has grown dramatically. That is due, in part, because more physicians are being trained to identify the symptoms of chronic fatigue syndrome and, in addition, some physicians have understood that chronic fatigue syndrome and its symptoms are better understood today than they have been in the past.

Unfortunately, a shocking number of physicians still believe that the disease really is not a disease such as this, but it is depression. They often tell their patients to just snap out of it. This has really added a burden on a lot of Americans, particularly those who reside in my part of the world, on Long Island, and we have an unbelievable number of chronic fatigue syndrome sufferers.

Over the last 2 years, I have met with many of these individuals who are really waging a valiant battle, not only to try to educate more and more physicians that this is a very real disease, but also to bring greater public awareness and resources to the research of this malady and to find a cure. It is absolutely heartbreaking to see parents and neighbors, spouses and children, or anyone suffering from the enduring pain and pervasive weakness of chronic fatigue, to see vibrant, energetic people all of a sudden stricken with a mysterious ailment that medical professionals cannot cure and, unfortunately, too many others think it is something else or choose to ignore this chronic fatigue syndrome.

I am particularly shocked that here in the United States, where this disease has been known since 1984, we are spending a paltry $5 million annually to try to figure out where this disease comes from and specifically how can we treat it. I would also reference the fact that while there are very few successful treatments for this terrible disease, those that doctors do employ quite honestly have a marginal effectiveness. For reasons that researchers still do not understand, chronic fatigue syndrome is diagnosed mostly in white women, typically in their 30's, though now there are a growing number of children who have been identified with having chronic fatigue syndrome.

In my home area on eastern Long Island, this cruel disease has stricken, as I said earlier, a disproportionate number of people. There are some 2,000 cases that have been identified, but I would suggest that the number is probably three times that.

Mr. Speaker, I yield at this time, if I could, to the gentleman from New York [Mr. LAZIO], my good friend and colleague from Long Island who has some personal experience with this dreaded disease.

Mr. LAZIO of New York. Mr. Speaker, I want to congratulate the gentleman from New York [Mr. FORBES] on taking this time out to help build an awareness across our country of the struggles that families and individuals suffering with chronic fatigue syndrome are going through.

As the gentleman had remarked, it is particularly hurtful when people who do not understand the syndrome mock their ailment or the illness because of a lack of information about this. Of course this also has a devastating effect on the children of some of the caregivers who have Chronic Fatigue Syndrome. It is a very difficult problem.

I have to agree with the gentleman that we need to marshal our public and private resources to begin the process of overcoming this terrible disease. Of

course I have been touched with this in my own family, as the gentleman had mentioned.

I want to thank the gentleman for his interest and for allowing me a few minutes to align myself and associate myself with the gentleman's interests in battling this terrible disease.

Mr. FORBES. Mr. Speaker, I thank the gentleman. I would like to recognize my other colleagues from Long Island: the gentleman from New York [Mr. ACKERMAN], the gentleman from New York [Mr. KING], and the gentlewoman from New York [Mrs. MCCARTHY], who equally have been working on this issue. We will be taking this floor several days this week to talk in extended terms about the chronic fatigue syndrome. It is a serious illness and one that we as a nation need to deal with in a more aggressive manner.

Mr. ACKERMAN. Mr. Speaker. I rise today to acknowledge Annual International Awareness Day for Chronic Immunological and Neurological Diseases. These illnesses are among the fastest growing health concerns in our country and constitute a large and neglected area in medical research. Chronic fatigue immune dysfunction syndrome [CFIDS] and fibromyalgia syndrome [FMS] are illnesses which affect at least a half million American adults and children. It is imperative that increased funding for research for CFIDS and FMS be approved in a timely fashion.

CFIDS is a serious and complex illness that affects nearly every aspect of an individual's life. It is characterized by incapacitating fatigue, neurological problems and numerous other symptoms. Approximately 1,000 individuals in Suffolk County alone suffer from this disease. One of my constituents, named Anthony Wasneuski, was diagnosed with chronic fatigue syndrome in 1990. Mr. Wasneuski was a furniture salesman in New York City. He was also an accomplished artist who received a scholarship from the Brooklyn Museum. Unfortunately, because of this illness he must now remain at home, and now has difficulty even signing his own name. Mr. Wasneuski's story represents a real life experience behind the cold numbers and statistics of this debilitating disease.

Fibromyalgia syndrome is a chronic, widespread musculoskeletal pain and fatigue disorder for which the cause is unknown. Research studies have indicated that approximately 2 percent of the general population are afflicted with FMS. The majority of FMS patients are female and symptoms may begin in young, school-aged children. Tragically, it takes approximately 3 years and costs thousands of dollars just to receive a diagnosis of the disease.

Chronic fatigue immune dysfunction system and fibromyalgia clearly affect people from all walks of life. As the 1998 appropriations process gets underway, we need to focus upon ways that we can provide more research funding for these debilitating conditions.

Mrs. MCCARTHY of New York. Mr. Speaker, I would also like to take the opportunity to thank my colleague, Mr. FORBES, for organizing this opportunity to speak out on chronic fatigue and immune dysfunction syndrome [CFIDS].

I would like to take this opportunity to talk about a little known but devastating disease: CFIDS. Once dismissed by doctors, this syndrome is now being taken seriously. Studies vary on how many people are affected by this disease but a conservative estimate is about 390,000 adult cases in the United States.

In the tristate area of New York, New Jersey, and Connecticut, approximately 4,094 to 11,000 people have CFIDS.

CFIDS is truly a terrible disease. It ranges in severity from patients who are just able to maintain a job, and may have to give up other aspects of their lives, to those who are bedridden and unable to take care of themselves.

While CFIDS traditionally affects young women in the prime of their lives, a growing number of children appear to have CFIDS. The fact that this disease is striking young children is particularly disturbing. This disabling illness will have a disastrous effect on the economy by preventing young children from becoming income-earning, tax-paying citizens.

While CFIDS is not known to be a killer, it has no proven treatment and no cure. Moreover, it is difficult and, unfortunately, nearly impossible to get a timely and correct diagnosis.

Because patients go to many different doctors to find a diagnosis, they often are subjected to unnecessary, costly, and potentially harmful treatments.

Mr. Speaker, this must change. Doctors, medical professionals, and those who are entering the medical fields must be educated about CFIDS. Delaying diagnosis is not only harmful to the patient, it is not cost effective. Treating individuals early in the disease process offers more promise for return to normal and productive living.

GENERAL LEAVE

Mr. FORBES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this very important special order.

The SPEAKER pro tempore (Mr. SNOWBARGER). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

[Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

HONORING AMELIA EARHART

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. RYUN] is recognized for 5 minutes.

Mr. RYUN. Mr. Speaker, today I rise to honor a great woman, a great Kansan, and a great American. Amelia Mary Earhart was born on July 24, 1897 in Atchison, KS as the grandchild of original Kansas pioneers.

The pioneering spirit never left Amelia as she achieved a collection of firsts and world records in which we should all take pride. These include the first woman to receive pilot certification, the first woman to fly nonstop across the United States; the first woman to fly solo across the Atlantic Ocean; and the first woman to receive the Distinguished Flying Cross.

Amelia Earhart was an early advocate of commercial aviation and lectured in the 1930's that one day people would fly through the sky every day to get from one place to another.

Earhart's commitment to aviation was equaled by her commitment to advancing equality and opportunity for women. She served as an aeronautical adviser and women's career counselor at Purdue University. She promoted equality for women in public presentations and appearances, but most importantly, Amelia Earhart led by example, by doing things that no one thought possible.

☐ 1900

Even in her disappearance, Amelia Earhart was striving to do that which had never been done, to become the first woman to circle the globe. This year marks the centennial celebration of the life and achievements of Amelia Earhart. We recognize this daughter of Atchison, KS, and honor her extraordinary contributions to women, science, aeronautics, and the Nation.

The SPEAKER pro tempore (Mr. Snowbarger). Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE TRAGEDY OF ALCOHOL-RELATED DEATHS ON OUR NATION'S HIGHWAYS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes as the designee of the majority leader.

Mr. BILIRAKIS. Mr. Speaker, the National Highway Traffic Safety Administration estimates that two in every five Americans, 40 percent, will be involved in an alcohol-related crash at some time in their lives. I rise today to reflect on the tragedy that drunk driving has brought to victims and their families around the United

States. I was encouraged to learn that from 1990 to 1994, there was a 20-percent decline in alcohol-related deaths on our Nation's roads. However, in 1995, alcohol-related traffic deaths increased for the first time in a decade. These statistics deeply trouble me, especially since our Nation has made a commitment to educate the public on the dangers of driving while under the influence of alcohol.

Mr. Speaker, I yield to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I am very pleased to be part of this special order, because 45 percent of the fatalities on our Nation's highways are alcohol-related. It is, as the gentleman mentioned, a tremendous problem. One of the things that I was most shocked about was to find that in emergency rooms across this Nation, emergency room personnel are very often not allowed to give information when a person comes in from a traffic accident with a high blood alcohol level, so a wonderful woman from Oregon came to me, a nurse, and she had changed the law in Oregon which said that emergency room personnel may make this information available.

As the gentleman knows, last year we passed a bill here in this House asking for a study to see about just allowing that emergency room personnel to report high blood alcohol levels. What we found in Oregon was absolutely shocking. Sixty-seven percent of the people who came in through emergency rooms with high blood alcohol level, who had been driving, were never charged with drunk driving because they were unable to give this information out.

So, Mr. Speaker, I really recommend what the gentleman is saying, that we need to educate people that this is a major, major problem in our country. We have young people, I believe it is six young people a day, who die on our highways in alcohol-related accidents. So I am hoping this study will show that where we can have emergency room personnel involved with the law enforcement to let people know, let law enforcement know that there has been alcohol involved in an accident, we may be able to reduce this tremendous carnage on our highways.

I really thank the gentleman for holding this special order, because it is, obviously, a major health problem in our country.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentlewoman for her involvement in this and in so many other issues. She has just been so stellar on my Subcommittee on Health on all issues, particularly preventive health care. That is basically what we are talking about here, preventive, the education that goes along with us. I thank the gentlewoman for joining us.

Mr. Speaker, in 1995, more than 17,000 people were killed in alcohol-related traffic crashes, including 2,206 youths. Mothers Against Drunk Driving, MADD, and many other important organizations, such as ''Remove Intoxicated Drivers,'' RID, Students Against Driving Drunk, SADD, and Campaign Against Drunk Driving, CADD, have been working to protect people from being injured or killed in drunk driving-related crashes.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise today in strong support of my colleagues' efforts to bring attention to the tragedy of drunk driving, and to discuss briefly a bill I have introduced with 20 of our colleagues on both sides of the aisle to establish a national commission on alcoholism to deal with this fatal disease in a comprehensive and cost-effective way.

Mr. Speaker, alcoholism killed over 100,000 Americans last year. That is more than all illegal drugs combined. Half of our Nation's convicted murderers committed their crimes under the influence of alcohol. My colleague, the gentleman from Florida, and my colleague, the gentlewoman from Oregon, already discussed the devastation caused by drunk drivers. Alcoholism is truly a painful struggle with a staggering public cost. Untreated alcoholics incur health care costs at least double those of nonalcoholics. In indirect and direct costs together, the public, the American taxpayer, pays at least $86 billion because of alcoholism.

I recently spoke with a former radio talk show host and city council member from Minneapolis. Her name is Barbara Carlson. Barbara told me the absolutely heartrending story of a young neighbor of hers killed by a drunk driver. It had so affected Barbara that she called her old station and asked for special air time, just to talk about this terrible tragedy and the scourge of drunk driving in this country.

Mr. Speaker, Barbara Carlson put it best when she said we will never reduce the 17,000 deaths that occurred last year alone in alcohol-related crashes unless and until we address the root cause of alcoholism. That is why we are introducing this legislation to create a national commission on alcoholism, to develop a practical, achievable public policy to deal with this costly, fatal disease. Mr. Speaker, we need a national strategy. To deal with illegal drugs, we have the Office of Drug Control Policy. We do not have a concerted national effort to deal with our No. 1 killer, alcoholism.

Let me just explain this bill very briefly, Mr. Speaker. This bill, H.R. 1549, would establish the Harold Hughes-Bill Emerson Commission on Alcoholism, named after two exceptional public servants who everyone in this body knows and who passed away last year; Harold Hughes, a very distinguished Democrat Governor and former U.S. Senator from Iowa, and Bill Emerson, a colleague of ours, a Republican member from Missouri. Both men were passionate advocates in the struggle against alcoholism, and both men strongly advocated the creation of this commission, and they handed this off to me to chief sponsor.

This temporary commission to deal with the problem of alcoholism will include 12 appointed members and also the director of the National Institute on Alcohol Abuse and Alcoholism. I foresee prevention and treatment experts on this commission, representatives of Mothers Against Drunk Driving, academic and medical professionals, representatives of the business community, recovering people, and Members of Congress.

The commission will be charged with specific tasks, including ways to streamline existing treatment and prevention programs, and develop a national strategy to counter this deadly and costly epidemic. Within 2 years the commission will be charged with submitting its recommendations to the Congress and the President, and then disband. I strongly urge my colleagues to cosponsor H.R. 1549.

Mr. Speaker, only by addressing the underlying problem of alcoholism will we ever reduce the incidence of drunk driving in America. Again, I thank the gentleman for yielding, and for his efforts in this important effort to deal with drunk driving.

Mr. BILIRAKIS. I thank the gentleman for his great work on this issue, Mr. Speaker.

Mr. Speaker, Mr. Tom Carey, who is a resident of my district in Florida and a co-founder of Remove Intoxicated Drivers, RID, is with us tonight. Tom lost his wife to a drunk driver, and has been an inspiration to those who have lost their loved ones to drunk driving.

Over the past 4 days MADD held its National Youth Summit on Underaged Drinking right here in Washington, DC. The event included high school students from each of the 435 congressional districts across the country. These students joined together to develop creative approaches to fight drunk driving. This afternoon the students who attended the summit met with Members of Congress and their staffs to share their suggestions. I am particularly proud to see students involved in such a noble cause, and I am convinced that their efforts this past weekend will go a long way towards saving lives.

Mr. Speaker, I yield to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I want to thank my colleague, the gentleman from Florida [Mr. BILIRAKIS], for coordinating this very important discussion on the problem of drunk driving in America.

As the House sponsor of the 1995 zero tolerance law for underage drunk driving and the current cosponsor of two pieces of legislation that will strengthen our Nation's drunk driving laws, I wholeheartedly agree that Congress must focus more attention on this issue. As we heard tonight, drunk driving fatalities are on the rise for the

first time in a decade. In 1995, the year for which most of the recent statistics are available, more than 17,000 Americans were killed in alcohol-related traffic fatalities.

The sad reality is that our drunk driving laws have failed thousands of families across the Nation. Our criminal justice system has been too lax for too long on drunk drivers. In fact, impaired driving is the most frequently committed violent crime in America. That is an outrage. A license to drive should not be a license to kill.

Back in 1995, Senator BYRD and I launched an effort with Mothers Against Drunk Driving to close a legal loophole in 26 States that allowed underage drivers to drive legally with alcohol in their system, as long as their blood alcohol content did not exceed the State's legal DWI limit. That loophole existed, despite the lethal consequences of teenagers who mixed drinking and driving. In fact, 40 percent of traffic fatalities, as the gentleman knows, involve underage drivers, and they are alcohol-related.

As a result of this law, 39 States have now adopted zero tolerance laws that send a very clear message: If you are under 21, consumption of alcohol combined with driving will be treated under State law as driving while intoxicated, end of story. These laws have saved hundreds of lives across the country, and I am very hopeful that all 50 States will make zero tolerance the law of the land.

Zero tolerance was an important victory in our war on drunk driving, but we must do more, much more. That is why Senator FRANK LAUTENBERG, Senator MIKE DEWINE and I have joined Mothers Against Drunk Driving, highway safety advocates, law enforcement groups, drunk driving victims, in introducing two important pieces of legislation to strengthen our Nation's drunk driving laws.

Using the proven sanctions methods of the 1984 national minimum drinking age law and the 1995 zero tolerance law, these bills will compel States to lower the legal level of driving while intoxicated to a more reasonable level, and strengthen penalties for repeat drunk drivers.

Mr. Speaker, more than 3,700 Americans were killed in 1995 by drivers with blood alcohol concentration below .1. This is the legal definition of driving while intoxicated in 36 States. In recognition of this problem, 14 States, including Florida, California, Virginia, and Illinois, have adopted laws lowering the DWI level to .08. The .08 laws have also been adopted by many industrialized nations. Lowering the DWI level to .08 is supported by the American Automobile Association, the National Sheriffs Association, the International Association of Chiefs of Police, the National Highway Traffic Safety Administration, and our Nation's largest insurance companies. The American Medical Association even recommends .05 DWI.

Why should we lower the DWI standard to .08? First, .08 is a level of intoxication at which critical driving skills are impaired for the vast majority of drivers.

Second, the risk of a crash increases substantially at .08 and above. In fact, a driver with .08 BAC is 16 times more likely to be in a fatal crash than a driver with no alcohol in his system.

Third, Americans overwhelmingly agree that you should not drive after three or four drinks in one hour on an empty stomach, the equivalent of .08 blood alcohol level.

Last, but certainly not least, .08 laws save lives. A study of the first five States to enact .08 found that those States experienced a 16-percent reduction in fatal crashes involving drivers with a BAC of .08 or higher, and an 18-percent decrease in fatal crashes involving drivers with a BAC of .15 or higher.

□ 1715

Overall, the study concluded that up to 600 lives would be saved each year nationwide if every State adopted the .08 standard. Now there are some who are trying to claim that .08 BAC is too low a level of intoxication and that our bill will target social drinkers who drink in moderation. This could not be further from the truth. It takes a lot of alcohol to reach .08 BAC.

According to the National Highway Traffic Safety Association, a 170-pound man with an average metabolism would reach .08 only after consuming four drinks in 1 hour on an empty stomach. A 137-pound woman with an average metabolism would need three drinks in an hour to reach that level.

We should keep in mind that if you have any food in your stomach or you snack while you are drinking, you could drink even more if you choose and not reach .08. That is a lot of liquor. In addition to lowering the legal definition of DWI, we need legislation to establish mandatory minimum penalties to convict drunk drivers and keep them off our roads. We must stop slapping drunk drivers on the wrist and start taking their hands off the wheel.

That is why The Deadly Driver Reduction Act will require States to mandate a 6-month revocation for the first DWI conviction, a 1-year revocation for two alcohol-related convictions, and a permanent license revocation for three alcohol-related offenses.

Studies by the National Highway Traffic Safety Administration show that about one-third of all the drivers arrested or convicted of DWI each year are repeat offenders. Drivers with prior DWI convictions are also more likely to be involved in fatal crashes. This second piece of legislation will close the loopholes in State laws that too often allow convicted drunks drivers to get right back behind the wheel.

Mr. Speaker, last Friday at the National Press Club, Redbook magazine and Mothers Against Drunk Driving honored five mothers who are the foot soldiers in this battle. These courageous women have vowed to make something good come out of a tragic loss of a child to a drunk driver.

One of those mothers, Mary Aller, is a constituent from Mamaroneck, NY, whose 15-year-old daughter, Karen, was killed by a drunk driver in 1991 who spent only a few months in jail. Mary went on to establish the Westchester County chapter of MADD. She is truly an inspiration to us all.

The evidence, Mr. Speaker, is compelling that adopting .08 as the national DWI standard and establishing mandatory minimum penalties will reduce the carnage on our Nation's roads. Our Government has an obligation to act when lives are at stake, and we owe it to all those mothers to adopt these bills.

I thank my colleague for having this session tonight. I appreciate the opportunity to share some words with you.

Mr. Speaker, I want to commend to all my colleagues' attention the article ''Drunk Driving Makes a Comeback'' from the May edition of Redbook magazine, and I submit that article for the RECORD.

[From Redbook, May 1997]

DRUNK DRIVING MAKES A COMEBACK

(By Joey Kennedy)

Anyone who knew Dana Ogletree knew he was a devoted father. Whether the 36-year-old Brooks, Georgia, resident was fishing with his five children, taking them to the Six Flags amusement park, or going to car races with his only son, Dana Jr., he was involved with his family. But today Shandra Ogletree, 37, is raising her children (now ages 10 to 20) alone. On December 20, 1995, as Dana was riding to work with a coworker, the car was struck broadside by a 17-year-old boy who had been drinking and also smoking marijuana. Dana died the following morning, after emergency surgery. Also killed were his coworker, David Harris, and the three young children of David's fiancée, whom he was going to drop off at their father's.

''It has been hard,'' Shandra Ogletree admits. ''We think of all the things Dana won't get to see. The birthdays. The graduations. He won't ever get to walk his daughters down the aisle. And my son won't get to have man-to-man talks with his dad.'' She is also bitter that the driver received a prison term of only ten years—''though he killed five people.'' Meanwhile, Shandra notes, ''I lost my busband of 19 years, my high school sweetheart. And my children lost a wonderful father.''

Dana Ogletree was one of 17,274 people who died in alcohol-related traffic crashes in 1995, the last year for which statistics are available. Each of those deaths represents a catastrophe for another American family.

What's shocking to many is that the figure also represents, for the first time in almost a decade, an increase in the number of drunk-driving fatalities compared to the preceding year. The long national campaign against drunk driving has stalled, it seems. While deaths from drunk driving are up, fund-raising for Mothers Against Drunk Driving (MADD) is down, as is the amount of media coverage given to the drunk-driving issue. Efforts to lower the legal blood alcohol concentration from .10 to .08 percent continue to founder in many states, thanks to vigorous lobbying by the liquor and hospitality (restaurant and bar) industries. Nationwide, the number of arrests for driving

while intoxicated went down from 1.8 million in 1990 to 1.4 million in 1995.

Despite these discouraging facts, the anti-drunk-driving campaign—begun by MADD in 1980 and joined by legislators, the law enforcement community, and other public safety groups—can look back on notable successes. Public awareness of the issue has dramatically improved. ''There was a time when drunk driving was treated pretty much as a joke, like some kid caught with his hand in the cookie jar,'' says Dwight B. Heath, Ph.D., an anthropologist at Brown University who studies behavior related to alcohol. ''Not anymore.'' Efforts by MADD and others have led to raising the minimum drinking age to 21 and to so-called zero-tolerance laws that punish underage drinkers who are caught driving with any alcohol content in their blood. ''You've heard so much about drunk driving that there is a perception that it's a problem either fixed or almost fixed,'' says Katherine Prescott, national president of MADD.

But the problem is not fixed, as so many families can attest. In fact, 41 percent of all traffic fatalities involve alcohol. While the anti-drunk-driving message has clearly gotten through to many Americans (see Redbook's national survey, page 93), thousands of husbands, wives, and children are still being killed by those who party hard and get behind the wheel. ''There's still a segment of our population that thinks it's perfectly appropriate when you drink, to drink all you can,'' says Susan Herbel, Ph.D., vice president of the National Commission Against Drunk Driving. Researchers who conducted a recent large-scale national survey of drinking-and-driving behavior estimated that there were 123 million incidents of drunk driving in the U.S. in 1993.

Is there any way to jolt legislators and the public out of their complacency, make drunk driving a hot issue again—and make the roads safer for our families? Anti-drunk-driving advocates are urging action on a number of fronts.

GET THROUGH TO THE GUYS

If drunk driving is, as MADD says, a ''violent crime,'' then who is committing it? Says Dr. Herbel, ''Drunk driving is very much a male problem.'' Men are four times more likely than women to drive after they've been drinking, one study found. And the segment of the population most likely to drink and drive is made up of white males between the ages of 21 and 34, in blue-collar jobs, with a high school education or less, according to a study by the Harvard School of Public Health.

How to stop them? Strict law enforcement—sobriety check-points, saturation patrols by police departments—does change drinking-and-driving behavior in the short term. But Dr. Herbel points out that these efforts require a huge commitment of resources by state and local police, and their effects taper off unless they are kept up consistently.

''There are those who feel you can rely on enforcing laws to solve the drunk-driving problem, but I don't agree with that,'' she says. ''Until drunk driving gets to be a behavior that is just not socially acceptable, we're not going to stop it.'' Dr. Herbel believes the anti-drunk-driving message should be modeled after the antismoking campaign, with its many community-awareness programs and education efforts that start in grade school.

Employers could play a role as well through education efforts and even spot-checks of the status of employees' drivers' licenses. ''The men who are most likely to drink and drive usually work, and their jobs are important to them,'' Dr. Herbel says. ''Employers should make it clear that drinking and driving is not acceptable.'' Better yet, employers could refer at-risk workers to counseling programs—so long as local communities cooperate by making such programs readily available.

The best way to reach at-risk men may be through their wives or girlfriends. Focus groups have found that men aged 21 to 34 are more likely to be influenced on the drinking-and-driving issue by the women in their lives than by public service announcements, bartenders, or male friends, according to Bob Shearouse, national director of public policy at MADD. Experts are unsure how to translate this finding into a public-awareness campaign, however. The Harvard study on at-risk men found that some of their wives and girlfriends ''described fear of verbal or even physical retribution'' for trying to stop drinking-and-driving behavior. ''For the unlucky woman involved with a man who has a tendency to be violent, especially after drinking, intervening could be dangerous,'' note MADD's Prescott. ''You have to be careful about advising women to do that.''

LET THE MEDIA SEND THE MESSAGE

While a certain segment of males may be the most likely to drink and drive, they obviously aren't the only culprits; the gospel about drunk driving must be preached to everybody. And Jay Winsten, Ph.D., director of the Center for Health Communication at the Harvard School of Public Health, says the message is fading and deaths are up for one reason: ''The mass media is paying far less attention to this problem than it was several years ago.''

Since the issue of drunk driving was widely covered in the eighties and early nineties, it stands to reason that there would be fewer news stories on the issue now. After all, why should journalists report on a story that already feels familiar to much of the public? Because doing so saves lives, Dr. Winsten says. He cites a period of high media attention in 1983 and 1984—a time when MADD was fresh on the national scene—that was accompanied by a drop in alcohol-related deaths. In 1986, Dr. Winsten says, deaths went up and remained fairly level until 1988, when the Harvard School of Public Health recruited the entertainment industry to help promote the notion of the designated driver (an idea imported from Scandinavia). During the next four television seasons, more than 160 episodes of prime-time shows, including Cheers, L.A. Law, and The Cosby Show, featured designated drivers in some way, and networks sponsored public-service announcements. The result? A 26 percent decline in drunk-driving fatalities over that four-year period.

''These days, we're getting designated-driver mentions in about a half dozen episodes per season,'' says Dr. Winsten. ''The public has bought the concept of the designated driver, but they have to make the decision to use it over and over and over again. And they rely in part on cures and reminders from the media.''

MADD's Prescott acknowledges that her organization is no longer a ''hot topic'' with the media. ''It's as though our having becoming credible and being successful hasn't helped us with the media. Now, we're like all the other charities.'' Further crowding MADD's issue are major news stories that thrust other worthy causes, such as car-air-bag safety, into the spotlight. ''That's been a major topic of conversation in Washington. Now, the last thing I want to do is offend anyone who has lost a child,'' emphasizes Prescott, who herself lost a son to drunk driving. ''But we're talking about a dozen deaths in 1995, when we know that more than 17,000 people died in 1995 because of drunk driving.''

As advocates for a variety of causes, from breast cancer research to recycling, have discovered, those who want coverage for their message must find ways to make it feel fresh. Dr. Winsten thinks that, for drunk driving, a debate over ''social host responsibility'' might serve that purpose. ''Should you be liable for a civil lawsuit if your party guest kills someone on the way home, as is already the case in some states?'' he asks. ''People disagree on this issue, but it doesn't matter as long as the issue of drunk driving is being discussed.''

One of the ways MADD will bid for a higher profile this year is to focus on drinking by people under age 21. ''Our current environment makes it acceptable for underage people to drink, to walk into a store and buy liquor even though it's illegal,'' Prescott says. ''We think this youth initiative will get the public's attention. Underage drinking has to be dealt with by communities, schools, churches, and homes.'' MADD will kick off its effort this month by hosting a National Youth Summit on Underage Drinking in Washington, D.C. Student delegates from each of the nation's 435 congressional districts will discuss possible solutions to the underage-drinking problem and deliver recommendations to members of Congress.

And in June, the National Highway Traffic Safety Administration hopes to stir public debate when it launches Partners in Progress, an ambitious program that has brought together numerous groups to develop strategies to curtail drunk driving. Their goal: to reduce yearly alcohol-related fatalities to no more than 11,000 by the year 2005.

TAKE ON THE ALCOHOL LOBBYISTS

Anti-drunk-driving advocates have also been tangling with the liquor and hospitality industries over the issue of lowering the legal blood alcohol concentration limit from .10 to .08 percent, an effort that has thus far been successful in only 14 states (see ''How to Save Hundreds of Lives This year,'' page 92). In practical terms, .08 means that an average 160-pound man can still have four drinks in one hour on an empty stomach before he would reach the legal limit for driving—a level that seems surprisingly lenient to many people. Dr. Herbel says the liquor and hospitality industries are fighting hard against the .08 limit because they see it as a step toward zero tolerance—that is, making illegal any amount of alcohol in the bloodstream of someone who is driving—which could, obviously, have a big impact on their businesses. ''Those industries believe that, as soon as .08 passes in all states, somebody will start a movement for .06 or .04,'' says Dr. Herbel.

While that battle is being waged, anti-drunk-driving advocates are pursuing other legislative remedies: the Crime Victims' Bill of Rights, sponsored by Senator Dianne Feinstein (D–CA), which would ensure that victims of all kinds of crime, including drunk driving, have certain basic rights; and the Deadly Driver Reduction Act, which would entail license revocation for drunk-driving offenders.

The boy who killed Dana Ogletree was an underage drinker. ''Where did he get that beer?'' asks Shandra Ogletree, angry that the details haven't come out. ''Did someone sell it to him? Or did he have an older friend buy it for him?''

Until everyone who might be responsible for a drunk-driving accident—not only the drinker, but store clerks, friends—recognizes his or her role, the problem won't be solved, Shandra argues. And thousands of families will continue to suffer the consequences.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentlewoman for sharing in

this very important special order and for all of her work and research and the study on this subject. We oftentimes ask ourselves, what is the proper role of Government? Certainly, we on this level have not really done enough on this subject, and we need to continue to look at it and do more.

Mr. Speaker, I recognize the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, I thank the gentleman for yielding, and I certainly want to commend him for holding this very important special order to call attention to the problems of underage drinking and drunk driving.

Mr. Speaker, few tragedies bring as much pain to families and communities as fatal accidents caused by drunk driving, especially when young people are involved. The community of Santa Barbara, which I am very proud to represent, was struck by this plague over the weekend when 3 college students were killed when their truck veered off Gibraltar Mountain road.

Alcohol was a factor in this accident, and all 3 were under the legal drinking age. My heart truly goes out to the grieving family and to the friends of these young people, many of whom I know personally. Nothing that we can say or do today will bring them back, but we must all try to learn important lessons from this terrible loss of life.

Mr. Speaker, it is sometimes useful for us in Congress to share personal stories from our own lives in order to advance important policy objectives. The issue of drunk driving has had a profoundly personal impact on my own life. On May 23, I will commemorate the 1-year anniversary of a horrible car accident that nearly claimed my life and the life of my beloved wife Lois.

Returning home from a campaign appearance, our car was struck by a drunk driver. I had to be cut from the wreckage with the ''jaws of life.'' I suffered serious injuries that required surgery and months of rehabilitation. This coming week, next week, my family and friends will gather together for a celebration of gratitude for all those who saved us, helped us heal, brought us back to life.

I will always be grateful to the police, to the rescue personnel, to the doctors, the nurses, the physical therapists, family, and others who brought us back to life. Without them, I would never be standing here in this great Chamber this evening.

But tragically, many families are not as fortunate as we were. And that is why it is so important to convene events like MADD National Youth Summit. This week, hundreds of young people, including Amy Yglesias from Santa Maria, CA, which I am also very proud to represent, have come to this Nation's capital for this unprecedented summit meeting. Here, they will discuss and develop solutions to the problems of underage drinking and drunk driving.

Back home in our district, MADD is also sponsoring important events. This past Sunday, for example, my wife and daughter and I ran in a MADD-DASH, a 5-mile benefit run near Highway 154, the very road on which our accident occurred.

Congress can pass important laws on this subject. We can pass laws on the drinking age, on alcohol accessibility, on alcohol advertising. But only when our young people are fully engaged in the battle themselves will we have a chance to succeed.

I commend Mothers Against Drunk Driving and all those who worked to make this week's summit a reality and for putting together innovative events in our districts.

Mr. Speaker, I know my colleagues on the floor this evening all join me in pledging to work toward the day when our communities will no longer suffer the heartbreaking pain brought on by drunk driving accidents that claim the lives of young people and too many of our citizens.

Mr. Speaker, I thank the gentleman for the leadership he is giving to this effort.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for sharing his own personal story with us. I am not sure that there are too many Members of Congress who do not have similar stories to tell either about close friends or family members.

Mr. Speaker, Mothers Against Drunk Driving should also be commended for the Youth in Action Campaign, which is dedicated to educating students about the dangers of drinking and driving. I mentioned a statistic earlier that more than 17,000 individuals died in 1995 from alcohol-related crashes. It is all too easy for us to forget that this number is not just a statistic. These were 17,000 people who also had stories. They had families and friends who cared for them and loved them dearly.

One of those stories happened in Spring Hill, FL. On December 22, 1995, Monica Nicola and her 2 daughters Danielle, 9 years old, and Stephanie, 8 years old, went to the mall to have their pictures taken with Santa Claus. After having their pictures taken, Monica was driving her daughters home when a van in front of her car suddenly swerved. By the time Monica realized that the van was swerving, it was too late to react. A car had crossed the centerline, missed the van and hit Monica's car head on.

When she regained consciousness, Monica realized that she had a broken leg. She could see Danielle, who suffered a broken arm and bruises, but she could not see 8-year-old Stephanie. Stephanie was pinned down, out of sight, and died immediately at the scene.

Stephanie was not the only one who tragically lost her life in a terrible accident. A passenger who was riding with the drunk driver also died. Monica and the man who caused the accident were airlifted to the hospital together. The man's breath smelled so strongly of alcohol that it was overpowering.

It turns out that the driver had a number of accidents since 1982, several DUI's, no license, and no insurance. But none of that stopped him from driving that night. In January of 1997, the driver was sentenced to 40 years, 40 years in prison, but not before the Nicola family had to endure an entire year without justice.

Today the Nicola family, John, Monica, and Danielle, reside in Pinellas County, FL, my county. The Nicolas are not alone in their suffering, but their story is so very important for all of us to hear. It awakens us to the fact that there are real people behind the statistics we hear so often.

Drunk driving knows no social or economic boundaries. Indeed, I am sure that we all know, as I said earlier, of a relative, friend, or celebrity who at one time or another got behind the wheel of a car after one too many drinks.

Many Floridians may recall the story of Olympic diver Bruce Kimball and the night he killed two teenagers in Brandon, FL. Ironically, Bruce Kimball has experienced both sides of a drunk driving collision, first as the victim and then as the offender.

For those of you who are not familiar with this story, let me take a few minutes to review this tragic story. Bruce Kimball won a silver medal in diving at the 1984 Summer Olympics. Just prior to the 1988 Olympics, he had a few drinks and got in his car to drive. The Houston Chronicle wrote an article on Bruce in October of 1994 which recounts his story. To paraphrase the Chronicle, his father Dick was, and still is, the diving coach at Michigan, and so Bruce Kimball gravitated naturally to that sport. Bruce blossomed quickly, eventually winning 14 Junior Olympic national titles, and at 17 stamped himself as one of this country's top prospects with a fifth-place finish at the 1980 Olympic trials. The following October, as he was driving friends home, his van was hit head on by a drunk driver and suddenly Bruce was fighting not only for his future, but for his life as well. His skull was cracked. Every bone in his face was broken. His spleen was ruptured. His liver was lacerated. His left leg was broken. His bleeding was torrential, and 14 hours of reconstructive surgery was needed to put him back together.

Yet, a mere 9 months later, he returned to diving. He was often referred to as ''the Comeback Kid.'' And when he won a silver medal in platform diving at the 1984 Games of Los Angeles, he stood as a true profile in courage.

As he trained in Florida for the 1988 Olympic trials, he was still considered the second best diver in the world. Those trials were less than 3 weeks away on the night of August 1, when Bruce Kimball roared down a dark and narrow street in Brandon behind the wheel of a speeding sports car.

About 30 teenagers were gathered at the end of that dead-end street in a place they called the spot, and in an instant Kimball plowed into them, killing 2 of them and injuring 4 others. His

blood alcohol level, a prosecutor later claimed, was .2, which was twice the legal limit under Florida law. His speed at impact was estimated at 75 miles per hour.

Kimball was sentenced to 17 years in prison, but in November 1993, after undergoing extensive drug and alcohol rehabilitation at four different Florida institutions, he was released after serving 5 years. After being released, Bruce started a part-time job in a Chicago high school coaching diving. Two times Bruce Kimball has had the opportunity to rebuild his life. Unfortunately, the victims of this tragedy will never have that chance.

Mr. Speaker, the stories about Stephanie Nicola and Bruce Kimball remind us that drunk driving can affect anyone's life. Yet, what is most unfortunate is that these terrible events did not have to occur. They could have been avoided had the drivers taken responsibility for themselves and not driven their cars while impaired.

These drunk drivers are not evil people, Mr. Speaker. They are just irresponsible. They go out on the town to have fun. They have a few too many drinks and, believing that they are okay to drive, turn the ignition on and zoom off.

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If they are lucky, they make it home. But all too often something terrible happens, someone gets hurt or, even worse, someone gets killed.

Last week a North Carolina jury held a drunk driver Thomas Jones to the highest level of accountability for killing two Wake Forest University students. The jury sentenced Mr. Jones to life in prison for his actions.

I believe that this verdict, Mr. Speaker, is evidence that Americans are no longer willing to tolerate this type of irresponsible behavior.

Much of this change in attitude is in large part due to the grassroots organizations throughout the United States which have taken the lead in educating students and parents about the dangers of drinking and driving. Groups like MADD, CADD, SADD, and RID have made tremendous progress in promoting responsibility and raising awareness about the dangers of drunk driving. These grassroots organizations have pushed for legislative changes regarding drunk driving.

In my home State of Florida, they played an integral role in lowering the legal blood alcohol content from .10 to .08. According to the Centers for Disease Control, States that have lowered the legal blood alcohol content to .08 have experienced a significant decline in the proportion of fatal crashes relative to other States which have not adopted these laws.

Other examples of success by grassroots campaigns in Florida during the past 10 years include raising the legal drinking limit to 21 years of age and instituting mandatory license revocation for anyone caught drinking and driving.

However, Mr. Speaker, I am convinced that the most significant accomplishment by drunk driving opponents has been, as mentioned earlier, the nationwide awareness and acceptance that drinking and driving is a serious problem. I want to commend all of those who have given their time and energy to make this cause very worthwhile.

Mr. Speaker, we must continue our fight to end this terrible problem which affects so very many of us. We in Congress have a moral obligation to join together with grassroots organizations in raising the awareness about the dangers of drunk driving. I thank my colleagues for joining me in this special order to strengthen our commitment and resolve to keep our Nation's roads safe from drunk drivers.

I have a number of facts here. I call it the Fact Sheet on Alcohol-Impaired Driving. This is from the Centers for Disease Control, dated May 13, 1997. I am going to submit that as a part of the RECORD in the interest of time here this evening.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, I thank the gentleman for yielding to me. I am happy to join the gentleman tonight. I want to thank him for taking the time and the effort to bring this critical problem to our awareness.

Young people unfortunately oftentimes do not plan ahead as they should. They sometimes act impulsively when they should not. As I have visited many high schools in my district, recently have been encouraged to see banners decorating the hallways and the lobby areas reminding young people that, as prom season approaches, this is a very critical time. It is a time when they need to be sensitized to the dangers of drinking and driving.

I would like to say that I am encouraged as I have seen high schools especially making special efforts to see that prom night is a time of safety as well as entertainment and enjoyment for our young people. And they have done that by not only trying to educate the young people regarding the dangers of drinking and driving but also making after-prom activities available which in some cases last all night in a safe and secure and well-supervised setting.

I think the gentleman is right. The greatest effort that we can make in terms of keeping our young people safe during this prom season is to educate them to the dangers and then to take those steps necessary to make sure that their activities are well supervised. Nearly every year in my State of Ohio, we read some tragic story about young people who have gone to the prom and then had a tragic accident. I am hopeful that this year in my State and in my district as well as across the country that the efforts that the gentleman and others are making to raise this issue in terms of public awareness will prevent such a tragedy from happening. I am happy to join the gentleman and to thank him for his efforts.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Ohio, who is a very busy and active member of my Committee on Commerce. And I also thank the gentleman for reminding us that this is prom season. We have talked about MADD and SADD and RID and CADD, et cetera. There are other organizations out there that have helped. But one of the things that has really pleased me is for instance Busch Gardens down in Tampa, FL, and so many other private entities, if you will, have gotten really involved and have invited the young people into their facilities during this period of time so that they can have a good time and not have to travel long distances and go from one location to another for their proms. All of that is helping. Of course what we do here is going to be of great help, too. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, I appreciate the gentleman's leadership on this issue. In addition to commenting on this, there is another related matter I want to raise tonight. I appreciate the gentleman yielding some time.

I met earlier today with Michael Larrance from Hamilton High School in my district who is out here for the conference. He has formed a group at his high school of students who are committed not only to trying to combat alcohol abuse but also drug abuse, teen pregnancy and other issues and the need to stress abstinence in these areas.

I worked recently to put together a play that he has taken to other schools, too, to try to address this. I think it is very important that we encourage efforts among the students themselves to combat this. Having a son 17 who is a junior in high school and a daughter who is 19, I am very concerned when they have hit prom season and a lot of the spring seasons and the various trips that they go on, about what they and their friends, and you always worry about who they are riding with, not only their behavior.

I also know that my friend, Senator Tom Wyss, in Indiana has been battling hard with open container laws and various things in Indiana that have been huge fights because there is a lot of money that goes into trying to keep us from putting difficult standards on. But the zero tolerance type of policies a lot of schools are putting in, efforts of police forces to crack down on this, is not only good for our kids but for the rest of us. It is frightening to think of somebody who is alcohol drenched or drug crazed driving down the highway, and you are minding your own business and all of a sudden your life is taken out of your hands because of someone else's behavior.

One of the things I visited over 20 years in the last 6 months, talking

about particularly narcotics abuse but including alcohol and tobacco abuse, and one of the things that I have become concerned with is a bill that we are dealing with later this week regarding narcotics. I am afraid and I am sorry to announce this, but apparently our war against drugs is over. That is the good news. Unfortunately, if this bill we are working on later this week on international issues survives the legislative process, the drug producers and the drug shippers will have won instead of our Nation, because we are now going to give up the current drug certification process.

Many Americans will wonder what I am talking about. Section 490 of H.R. 1486 ends, repeat, kills off provisions in current law which require the President to certify to Congress if a country produces illegal drugs or ships them to kill U.S. children. In place of the current law, the bill the House is considering replaces drug certification with a pile of loopholes and exceptions that are virtually certain to mean no country, including Mexico, will ever been decertified for U.S. foreign aid.

Here is what section 490 does. It allows the President to, and I quote, ''to the extent considered necessary by the President,'' end quote, to hold back foreign aid or instruct the U.S. representative at the World Bank to vote against loans to countries if a series of conditions suggested in the legislation are violated.

Just to be sure that the law is absolutely weak, the legislation allows the President to ignore even the new and timid standards if acting against a pro-drug country, including Mexico, will, and I quote again, ''affect other United States national interests.''

When I read this provision in the bill, I thought to myself, what a nice gift this will be for President Clinton's weak-on-drugs choice to be U.S. Ambassador to Mexico to take with him. We are looking at appointing an ambassador to Mexico who believes in so-called medicinal use of marijuana. There is no medicinal use of marijuana.

There is a medicinal use of THC, which is found in other drugs. It is a back-door effort to legalize drugs. If the policy of the Congress is not to stand up when we send an ambassador to Mexico who is supporting back-door legalization and we take out the drug certification process, what message is this to the kids? We are telling them on one hand, do not drink, do not do drugs. On the other hand, what we are saying is, if trade is more important and all of us, and I know in Florida it is important, in Indiana it is increasingly important. Nobody is saying that trade is not important, nobody is saying we do not have huge immigration questions to deal with. At the same time, we cannot be so concerned about risking some trade or irritation as we work through this that we back off our focus on the drug war.

So I hope to have more to say on this later this week. But I wanted to take this opportunity to come down and say that sometimes we only talk about marijuana and cocaine, and we forget that alcohol is the No. 1 problem among teens. But we also need to understand as a Nation that these things are closely interrelated, and abusers of one are abusers of another. We need to send a clear, concise, consistent message across the board that we stand against this abuse. It is critical for our country, for the future of our young people. It is important in our international policy. We cannot send our children the message that money is more important to us than our lives and safety and their own character development which gets impaired when you use any kind of narcotics, whether it is alcohol, marijuana, cocaine, heroin.

I know in Florida we have had an outburst of the heroin problem, too. We need to look at all these things. I commend the gentleman again tonight for his efforts on drunk driving and all those teens and parents who have been involved in SADD and MADD and those who have been particularly affected by this. Nothing is more tragic than to talk with somebody, as we have had in all of our districts and all over the country, somebody who has lost a life—lost a mother, a father, or lost one of their cherished children because somebody could not handle the alcohol and somebody was not responsible and because of that, somebody else is dead.

I thank the gentleman for his efforts and thank him for yielding me time tonight.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for reminding us that these drugs, if you will, and alcohol are certainly very interrelated. And our wars, in terms of trying to protect our young people, must include both drugs as well as alcohol and other ills that are really out there, so many of them.

I thank the gentleman for his great work on this subject.

Mr. PAPPAS. Mr. Speaker, just a few weeks ago, several of my colleagues and I came to the floor to discuss the increasingly growing problem of juvenile crime in our Nation. All too many of the stories and statistics that I heard my colleagues discuss stemmed from alcohol abuse.

Alcohol abuse among our Nation's youth has indeed become a very serious problem. According to a recent Washington Post-ABC News survey of teens and parents, alcohol abuse was identified as the biggest drug problem facing young people today. I have also seen several studies and reports that reveal that possibly more than half of the country's population that is over the age of 12 is currently using alcohol.

Let me just repeat that: more than 50 percent of the Nation's teenagers use alcohol. We are talking about 8th, 9th, and 10th graders.

Among other things, this is the same age when many young people are first learning to drive. Simply stated, the two do not mix. We cannot begin to tackle the problems of drunk driving without at the same time addressing underage drinking.

For the past few years, I have stood on the steps of the Somerset County Courthouse in a candlelight vigil as the names of victims of drunk driving are read. I pray that next year fewer names are read off.

We are all probably aware of the tremendous peer pressure that so many young people face today. But this week, students from across the country gathered in Washington for the National Youth Summit To Prevent Underage Drinking. These students discussed ideas and made recommendations to curb this problem.

The idea of students and elected officials working together to tackle this problem has been very successful in Somerset County, NJ. While serving as a Somerset County freeholder, I helped form the Somerset County Youth Council in which I asked local school principals to recommend young people to come together and form a council to advise the local elected officials about the pressures facing our youth and strategies for addressing those needs.

This youth council became involved in a wide variety of youth related efforts such as substance abuse prevention ideas, self-esteem building projects, peer leadership programs, and community service and civic projects.

I am also proud to say that I have been involved for a number of years in the 4–H program, and have always felt that this program goes a long way in directing our Nation's youth in positive directions.

I applaud the efforts of the students that came to Washington this week. I wish them well as they return home to share their efforts and recommendations with their classmates and friends. I also want to call upon the Nation's elected officials, leaders, teachers, and parents to encourage these efforts and provide a positive model for these youngsters.

Maybe, if we all put our shoulders to the same wheel, we can work to create a brighter future for America.

NAFTA UPDATE

The SPEAKER pro tempore (Mr. SNOWBARGER). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Ohio [Ms. KAPTUR) is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, I am pleased to be the first speaker this evening in a special order devoted to the North American Free Trade Agreement, NAFTA. Tonight we are going to talk about, since the agreement was signed and passed over the objections of many, many of us here in the House, passed in January 1994, what have been the repercussions in our country and what have been the repercussions in the other two nations on the continent, Canada and Mexico, that are participating in this agreement with us?

This past week we saw our President travel to Mexico and to other nations of Latin America to promote additional nations being added to the NAFTA accord. And the question many of us have in the Congress today is, based on the results of the existing NAFTA, the flaws inherent in that agreement, why would anyone want to

expand NAFTA rather than fixing the agreement we have now?

Since NAFTA's passage, the United States has not exported more than it has imported from either Mexico or Canada. In fact, we have now racked up trade deficits annually with Mexico totaling $16 to $18 billion a year, and with Canada $20 billion a year. If each billion dollars translates into lost jobs in this country and we have racked up on average $40 billion in trade deficit every year since NAFTA's passage, how can the overall agreement be working to the advantage of our Nation and its workers?

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If we think about it, with our economy on the rebound and holding its own, without NAFTA we would be growing even faster. Because, in fact, NAFTA acts not as a net positive but as a net negative in terms of job creation and wealth creation in the United States of America.

Tonight we want to talk a little bit about what is happening inside this agreement and the people across our country who are literally the casualties of NAFTA that are never talked about in the press, that are not heard from, but they number in the thousands in our country, and in Mexico they number in the millions.

But if we look at who the President talked to last week in Mexico, the audiences were self-selected. He was cordoned off. People were bussed into events. They were told when to cheer, even told when to wave flags.

But the real people of Mexico, the peasants who have been uprooted from their subsistence farms, the 28,000 businesses in that country that have gone belly up, the people whose wages have been cut by 70 percent, the President really did not hold state level meetings with them. Yet they live on this continent, too. And it is really tragic.

But in a way I am beginning to see a pattern here, because the President and the supporters of NAFTA will not meet with the casualties in our country either. And tonight I want to tell my friends about one casualty, but there are thousands. In fact, the Federal Government's Trade Adjustment Assistance Program for dislocated workers has already certified over 125,000 Americans who have managed to even find that this program exists. There are thousands and thousands more across our country who do not even know if they lose their job because the production has moved to Mexico or Canada, we will try to help them.

But I want to tell my colleagues about one of their stories, because it is very troubling to me that American citizens who have been hard-working, who have paid their taxes and then get hurt because of an action of their government, become nonentities. They become faceless people.

They remind me of the Vietnam war, when people were being killed in the countryside and the body bags came home and they tried to hide them in the hangars at the various bases around our Nation until it began to be reported on the evening news. Well, my friends there are NAFTA casualties and nobody wants to talk about it. But we are going to talk about it tonight.

One of the casualties is a woman that I have had the pleasure of only talking with on the telephone and corresponding with in the mail, and I want to use her as my example and I want to tell my colleagues her story because it is repeated from coast to coast. Her name is Wanda Napier. She is a resident of the State of Missouri. She lives in Marshfield, and I want to read into the RECORD a letter that she recently wrote me.

She wrote me after she became frustrated, and I will read those letters tonight, too, in writing to the President of our country, to her Senators, to her representatives at the State level in Missouri, to her Governor, to the Department of Labor. And to see the answers that this woman got from the Government officials of her State and our Nation is truly an embarrassment.

Here is what she writes me:

Dear Marcie: I am writing concerning the closure of my apparel plant in Seymour, MO. I called you with my concerns in January on the North American Free-Trade Agreement and its cost of American jobs like mine. This trade agreement has made it easier and more profitable for companies such as the Lee Apparel Co. to take American jobs to other countries like Mexico. It is my understanding that representatives want to extend that agreement to cover other countries as well. But let me tell you my story.

The Lee Apparel Co., a subsidiary of Vanity Fair Corp., was one of the two main employers in Seymour, MO. The employees were hard working people who had helped the Lee Co. through many hard times. In 1988, we accepted the Lee COMPETE plan which gave us an immediate cut in pay and tightened our incentive rates and made it harder to make a decent living. We took this cut to help make the jobs in Seymour more secure.

But we found out 8 years later on September 26, 1996, that our hard work and willingness to help the Lee Co. would be thrown back into our faces by the Lee Co. sending our jobs to Mexico and Costa Rica. By sending our jobs to Mexico, the Vanity Fair Corp., through low wages and corporate greed, have not even allowed the Mexican people to make a living.

With one stroke the Vanity Fair Corp., has weakened the American economy and depressed the Mexican people. I know that the people who worked in the Seymour, MO, plant deserve better. Many of the employees had devoted 5, 10, 20, even 25 or more years to the Lee Co., and this was their reward. We certainly were not making extremely high wages. The average for the last quarter we worked was only $7.84 per hour.

A total of almost 2,000 American jobs have been lost just since December of 1995—she says 2,000 jobs just in this one company, in the Lee Apparel Co.—including the closing of the St. Joseph, MO, plant; Fayetteville, TN; Seymour, MO; Dalton, GA; Bayou La Batre, AL; and the downsizing of jobs in the Winston-Salem, NC, plant. The other plants now working are in danger of losing their jobs to foreign countries and live in constant threat of plant closure. When will it stop?

I believe that the Government representatives of this country have allowed this to happen by passing the trade agreements such as NAFTA and GATT. Even though most will tell me that these trade agreements will be better in the long run, it does not help the 2,000 American workers who lost their jobs this year from the Lee Apparel Co., who need to support and feed their families.

I believe that when we combine the unconcern of the Government representatives of this country with the greed and coldness of the American corporations such as the Vanity Fair Corp., we will continue to have lost jobs and an increase of American work given to foreign governments.

The tax dollars generated in the city of Seymour, in Webster County, in the State of Missouri, and the United States, will be lost and services to those communities decreased due to lack of funds because of this closure. The same will be true in other communities that contained Lee apparel plants that were closed and the ones that will be closed in the future due to American work being sent out of the United States.

In a news bulletin dated October 18, 1995, the Vanity Fair Corp. stated, ''Clearly, though, Vanity Fair remains committed to a strong domestic manufacturing capability that provides quick response to our retail partners, flexibility to changing product trends and support to the local communities in which we operate.''

She says, I guess somewhere along the line the Vanity Fair Corp. forgot the American community and the American people to whom they sell their product.

Through the closing of these domestic plants, many American communities will suffer. Not only the employees of the closed Lee Apparel plants but also the businesses who rely on the money generated through wages spent. They will suffer too. That is some commitment on behalf of the Vanity Fair Corp.

We were told that if your plant must be closed, this is the best way because of the provision for job training provided by the NAFTA agreement. But in the case of Missouri, this is not proving to be the case. The employees of Seymour are having to fight to get the training entitlement under this plan. Many are having to fight many battles with the Employment Security Office that approves this training to get the

high-technology training that is supposed to lessen the chance of our future jobs being given to foreign governments. Not only have we lost our jobs, but we now must fight our own Government to get good training.

I don't know, but doesn't it seem like there should be a better way of doing things? When will the American Government start requiring accountability for these trade agreements? When will the American people that they represent start requiring accountability for the bills passed by our Government?

I hope you will read this letter to your fellow Representatives on the floor of Congress. Somewhere the system has gone against the American people and we need help. Thank you for your time and concern, I appreciate all you have contributed to the American worker.

Now I want to put Wanda's letter in the RECORD:

JANUARY 12, 1997.

Congresswoman MARCIE KAPTUR,
State of Ohio, Rayburn Building, Washington, DC.

DEAR CONGRESSWOMAN KAPTUR: I am writing concerning the closure of my apparel plant in Seymour, Missouri. I called your radio program on 1–12–97 with my concerns on the North American Free Trade Agreement and its cost of American jobs like mine. This Trade agreement has made it easier and more profitable for companies such as the Lee Apparel Company to take American jobs to other countries like Mexico. It is my understanding that representatives want to extend that agreement to cover other countries as well. This is my story:

The Lee Apparel Company, a subsidiary of the Vanity Fair Corporation, was one of the two main employers in Seymour, Missouri. The employees were hard working people who had helped the Lee Company through many hard times. In 1988, we accepted the Lee COMPETE plan which gave us an immediate cut in pay and tightened our incentive rates and made it harder to make a decent living. We took this cut to help make the jobs in Seymour more secure.

We found out on September 26, 1996 that our hard work and willingness to help the Lee Company would be thrown back into our faces by the Lee Company sending our jobs to Mexico and Costa Rica. By sending our jobs to Mexico, the Vanity Fair Corporation, through low wages and corporate greed have not even allowed the Mexican people to make a living. With one stroke, the Vanity Fair Corporation has weakened the American economy and depressed the Mexican people. I know that the people who worked in the Seymour, Missouri plant deserve better. Many of the employees had devoted 5, 10, 20, and even 25 or more years to the Lee Company and this was their reward. We certainly were not making extremely high wages. The average for the last quarter we worked was only $7.84 per hour.

A total of almost 2000 American jobs have been lost just since December of 1995 in the Lee Apparel Company, including the closing of the St. Joseph, Missouri; Fayetteville, TN.; Seymour, Missouri; Dalton, GA.; Bayou La Batre, Al.; and the down-sizing of jobs in the Winston-Salem, N.C. plant. The other plants now working are in danger of losing their jobs to foreign countries and live in constant threat of plant closure. When will it stop?

I believe that the government representatives of this country have allowed this to happen by passing the trade agreements such as NAFTA and GATT. Even though most will tell me that these trade agreements will be better in the long run, it does not help the 2000 American workers who lost their jobs this year from the Lee Apparel Company support and feed their families. I believe that when we combine the unconcern of the government representatives of this country with the greed and coldness of American corporations such as the Vanity Fair Corporation, we will continue to have lost jobs and an increase of American work given to foreign governments. The tax dollars generated in the city of Seymour, Webster County, the State of Missouri, and the United States will be lost and services to the communities decreased due to lack of funds because of this closure. The same will be true in the other communities that contained Lee Apparel plants that were closed and the ones that will be closed in the future due to American work being sent out of the United States.

In a news bulletin dated October 18, 1995, the Vanity Fair Corporation stated, ''Clearly, though, VF remains committed to a strong domestic manufacturing capability that provides quick response to our retail partners, flexibility to changing product trends and support to the local communities in which we operate.'' I guess somewhere along the line, the VF Corporation forgot the American community and the American people to whom they sell their product. Through the closing of these domestic plants, many American communities will suffer. Not only the employees of the closed Lee Apparel plants, but also the businesses who rely on the money generated through wages spent will suffer. That is some commitment on the behalf of the Vanity Fair Corporation!

We were told that if your plant must be closed, this is the best way because of the provision for job training provided by the NAFTA agreement. In the case of Missouri, this is not proving to be the case. The employees of Seymour are having to fight to get the training entitlement under this plan. Many are having to fight many battles with the Employment Security office that approves this training to get the high-tech training that is supposed to lessen the chance of our future jobs being given to foreign governments. Not only have we lost our jobs, but now we must fight our own government to get good training.

I don't know, but doesn't it seem like there should be a better way of doing things? When will the American government start requiring accountability for these trade agreements? When will the American people that they represent start requiring accountability for the bills passed by our government?

I hope you will read this letter to your fellow representatives on the floor. Somewhere the system has gone against the American people and we need help! Thank you for your time and concern. I appreciate all you have contributed to the American worker.

Sincerely yours,

WANDA J. RAPIER.

But what is very interesting is she sent a similar letter to the President of the United States. I am going to read his answer and put that in the RECORD this evening as well, because it is an answer that goes to the hundreds of thousands of people in our country who have lost their jobs to NAFTA as well as to the people in Mexico who are getting the short end of the stick.

This is what he said to Wanda, the President of the United States, in a letter dated January of this year.

DEAR WANDA: Thank you for sharing your views about the North American Free Trade Agreement. America's continued prosperity depends, as never before, on our ability to tap growing markets around the world.

NAFTA represents a great opportunity to create new, high-wage jobs here in America and to improve our ability to compete with Asia and Europe. And, as a result of this agreement, the Mexican and Canadian markets are beginning to open for the first time on a fair and equal basis to U.S. goods and services. More than 2 million American jobs are supported by exports to Canada and Mexico, and that number is growing in large part due to the NAFTA market-opening provisions.

Congress passed NAFTA in a historic demonstration of bipartisan support, and our country has chosen to compete, not retreat, and to reassert our leadership in the global economy. I hope you will continue to stay involved as we work to move our country forward.

Sincerely, Bill Clinton, President of the United States.

THE WHITE HOUSE,
Washington, January 14, 1997.

Ms. WANDA J. NAPIER,
Marshfield, MO.

DEAR WANDA: Thank you for sharing your views about the North American Free Trade Agreement. America's continued prosperity depends, as never before, on our ability to tap growing markets around the world.

NAFTA represents a great opportunity to create new, high-wage jobs here in America and to improve our ability to compete with Asia and Europe. And, as a result of this agreement, the Mexican and Canadian markets are beginning to open for the first time on a fair and equal basis to U.S. goods and services. More than two million American jobs are supported by exports to Canada and Mexico, and that number is growing in large part due to the NAFTA market-opening provisions.

Congress passed NAFTA in a historic demonstration of bipartisan support, and our country has chosen to compete—not retreat—and to reassert our leadership in the global economy. I hope you will continue to stay involved as we work to move our country forward.

Sincerely,

BILL CLINTON.

Now, Wanda also wrote her Senators, and I am going to read the answer that she got, and we wonder why the American people stop voting, because nobody is listening. And here is what one of the Senators said, and I will place this in the RECORD:

Dear Ms. Napier: Thank you very much for sharing your thoughts. I am always happy to hear from Missourians and am interested to know your thoughts on this issue.

Again, thank you for taking the time to inform me of your views. If I can be of further assistance, please do not hesitate to contact me.

U.S. SENATE,
Washington, DC, October 16, 1996.

Ms. WANDA J. NAPIER,
Route 4, Box 3810, Marshfield, MO

DEAR MS. NAPIER: Thank you very much for sharing your thoughts on supporting the NAFTA Accountability Act. I am always happy to hear from Missourians and am interested to know your thoughts on this issue.

Again, thank you for taking the time to inform me of your views. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

CHRISTOPHER S. BOND,
U.S. Senator.

Then she wrote a senator in her home State, and I will not read the entire letter here this evening, but I will read a portion of it and place the entire letter of reply in the RECORD. The gentleman, who is a senator in Jefferson City, says to Wanda:

The question was posed as to how we were allowing this to happen. I do not know that anyone was allowing this to happen. Competition in the sewing industry has been very intense for several years, and now that we have a Mexican labor market so open to us, there is even greater pressure from competition.

MISSOURI SENATE,
Jefferson City, October 16, 1996.

MS. WANDA NAPIER,
Marshfield, MO.

DEAR MS. NAPIER: I have received four letters which were identical so, therefore, I am taking the liberty of sending each of you the same letter.

I am very sorry that the Lee Company found it necessary to close the Seymour plant and I know it will be a burden and hardship on 350 individuals as well as their families. The economic impact on the county is also obvious.

The Department of Economic Development has assured me that they will do all they can do to see that a new employer is able to move into the Seymour community at the earliest date possible.

The question was posed as to how we were allowing this to happen. I don't know that anyone was allowing this to happen. Competition in the sewing industry has been very intense for several years and now that we have a Mexican labor market so open to us there is even greater pressure from competition.

I doubt that any one of us wants to live in a state or nation that would nationalize businesses (take the companies over).

You may wish to correspond directly with Congressman Skelton and Senators Bond and Ashcroft. Their addresses are enclosed.

Be assured of my interest and willingness to help in any way I can. I do believe that there will be job opportunities for the work force in the Seymour area. The availability of the plant facilities and trained work force has to be a real asset for the city of Seymour to offer a prospective company.

I know it is a difficult time but by working together there will be a brighter day.

Sincerely,

JOHN T. RUSSELL.

At least he was honest. At least he was honest, and what he is really saying is that here in the United States what we are doing is, we are in a race to the bottom. Lowering our standards continually, wages not rising, benefits being cut, whether it is in health, whether it is in retirement, workplace standards deteriorating because we do not have proper rules of engagement with nations that are not at our level and standard of living.

Now, she also wrote the Secretary of Labor of the United States of America. I am going to place that response in the RECORD, as well, because essentially what they say to her is that the President and the Secretary of Labor have been raising the issue of corporate responsibility, and they are telling her that while change is inevitable, profit should not be the only factor considered when companies reorganize, merge, or downsize.

And, in fact, the Secretary of Labor informs her that the President of the United States recently hosted the White House Conference on Corporate Citizenship, gee, would that not make her feel good, to continue the national discussion, discussion of how the corporate sector can ensure growth and profitability while not denying people the opportunity to make the most of their lives.

They go on to say that more than 300 business leaders came to the White House, including a sizable number of those businesses that are leaders in one or more of the five critical aspects of corporate responsibility. And listen to what the White House thinks are the elements of corporate responsibility: family-friendly work practices, health care and retirement, safe and secure workplaces, education and training, and employer-employee partnerships.

But where is jobs in America? Where is the issue of holding these corporations responsible for productive, high-wage jobs in the United States of America? Not even discussed.

U.S. DEPARTMENT OF LABOR, OFFICE OF THE ASSISTANT SECRETARY FOR POLICY,
Washington, DC, October 28, 1996.

MS. WANDA NAPIER,
Marshfield, MO.

DEAR MS. NAPIER: Thank you for writing. The Secretary of Labor has asked me to respond on his behalf.

The President and the Secretary are committed to doing all they can to assist workers, such as those at the Lee Company plants cited in your letters, who have lost or are in danger of losing their positions as a result of downsizing. The Administration is fighting to ensure that adequate funding is provided for training programs for dislocated workers, to help them land on their feet.

The President and the Secretary are also raising the issue of corporate responsibility. While change is inevitable, profits should not be the only factor considered when companies reorganize, merge, or downsize. Corporate decisions and actions must accommodate the interests of employees as well.

The President recently hosted the White House Conference on Corporate Citizenship to continue the national discussion of how the corporate sector can ensure growth and profitability while not denying people the opportunity to make the most of their lives. More than 300 business leaders attended the Conference, including a sizeable number of those businesses that are leaders in one or more of five critical aspects of corporate responsibility: family-friendly work practices, health care and retirement, safe and secure workplaces, education and training, and employer-employee partnerships.

Thank you for sharing your thoughts and concerns on these important economic issues with the Administration.

Sincerely,

EMIL PARKER,
Office of the Assistant Secretary for Policy.

It was interesting, she wrote her Governor. I will not read the answer from the Governor of Missouri, but basically it is a letter saying, I want to hear the concerns of citizens and be of assistance, but because your problem of losing your job falls under the jurisdiction of the Department of Labor and Industrial Relations, he is bucking the letter to the Department of Industrial Relations, which basically tells her that they have a listing of computerized building and site information that they make available to potential companies that want to locate in Missouri.

OFFICE OF THE GOVERNOR,
STATE OF MISSOURI,
Jefferson City, November 26, 1996.

MS. WANDA NAPIER,
Marshfield, MO.

DEAR MS. NAPIER: Thank you for your letter. I want to hear the concerns of citizens and to be of assistance when possible.

Because the matter addressed in your letter falls under the jurisdiction of the Department of Labor and Industrial Relations, I have forwarded your letter to the department director's office for review and response. You should receive a reply in the near future. If you do not, please let me know.

Very truly yours,

MEL CARNAHAN.

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I can tell my colleagues I spoke to Wanda on Sunday again. She has no job. Her fellow employees, if they have been able to scrape anything together in that part of the country, are earning half of what they used to earn, and they only earned about $7.85 an hour anyway.

This is what one citizen has tried to do to get anybody to listen to her story. This is someone who could be completely down and out, but she refuses to back down because she wants an answer. So what is she doing? She has rewritten the President of the United States another letter. She said, ''Mr. President, I do not think you read my letter because the answer I got could not have been to the letter that was addressed to you.''

She wrote that letter a few months ago and she finally got an answer dated May 5, again from the White House, exactly the same letter, word for word, except for the date, that she received in the first place. I am going to place that letter in the RECORD as well at this point.

The White House,
Washington, May 5, 1997.

MRS. WANDA J. NAPIER,
Marshfield, MO.

DEAR WANDA: Thank you for sharing your views about the North American Free Trade Agreement. America's continued prosperity depends, as never before, on our ability to tap growing markets around the world.

NAFTA represents a great opportunity to create new, high-wage jobs here in America and to improve our ability to compete with Asia and Europe. And, as a result of this agreement, the Mexican and Canadian markets are beginning to open for the first time on a fair and equal basis to U.S. goods and services. More than two million American jobs are supported by exports to Canada and Mexico, and that number is growing in large part due to the NAFTA market-opening provisions.

Congress passed NAFTA in a historic demonstration of bipartisan support, and our country has chosen to compete—not retreat—and to reassert our leadership in the global economy. I hope you will continue to stay involved as we work to move our country forward.

Sincerely,

BILL CLINTON.

She has been e-mailing the White House. This is a woman who will not give up. I give her so much credit. She has been e-mailing the White House almost every other day. It is interesting when she writes the e-mail to explain her problem, whoever is down in that office in the e-mail office, here is what they answer her:

Thank you for writing to President Clinton via electronic mail. Since June 19, 1993, the White House has received over 1 million e-mail messages from people across the country and around the world. We are excited about the progress of online communication as a tool to bring government and the people closer together. Your continued interest and participation are very important to that goal. Sincerely, Stephen Horn, Director, Presidential E-mail, the Office of Correspondence.

If you were Wanda sitting out there in Missouri, how would you feel? I promised her that I am going to keep repeating her story until she gets a decent answer from the highest officeholder in this land who is elected, not appointed, and who is the promoter, the chief promoter of this agreement, along with the Speaker of this institution. It seems to me that Wanda and the 125,000 citizens of this country who have completely lost their jobs, in California, in Missouri, in Florida, in Michigan, in Tennessee, in Kentucky, in Alabama, in Texas due to NAFTA, do they not have a right to more consideration than this?

Today in Ohio we had major news. In the Warren, OH area, 8,500 workers at a major General Motors plant have gone on strike. What are they striking about? Let me read from the AP wire service. They walked off the job at General Motors Corp. where they make electric wiring for 20 automakers worldwide. The walkout began at 12 o'clock today, the deadline set by their union representatives to reach a contract agreement on local pension and pay issues with Delphi-Packard systems. Talks broke off on the issue of job security. Specifically, the union's contention is that the company in recent years has shifted thousands of jobs to Mexico, which it has. It employs over 37,000 people in Mexico today. General Motors is the largest employer in the nation of Mexico after the Government of Mexico.

The company wanted to reserve the right to move any work out of Ohio to Mexico at any time and that they did not have to meet with us about it, and that's when the bargaining committee said we can't live with that.

The concern is for our members working here to be able to retire from here.

Their story, their strike is connected to Wanda. It is over the same issue: fair treatment of workers across this continent. It is very interesting that when Mexico got in trouble last year and they had to be bailed out with the peso bailout, the investors on Wall Street and the investors on the Mexico City stock exchange had such important seats at the table that our own Government became the insurance company for Mexico and our taxpayer dollars, through the U.S. Treasury, were used to prop Mexico up. But when the American people lose their jobs to another nation, or they are threatened with losing their shirts, they have no seat at the table. There is no place under NAFTA where the workers of our country, and, for that matter, the workers of Mexico and the farmers of both nations, where they get a break, where they get anybody to pay attention to their story. Do my colleagues think the Secretary of the Treasury even would sit down with Wanda? I would love to see that. The President of the United States will not even answer her repeated letters and repeated e-mails.

So here tonight we give voice to her, we give voice to the 8,500 General Motors workers in Warren, OH, who are standing firm. Their fight is a fight for every working family in America, because they are saying, we do not want our jobs outsourced. We do not want to have our wages reduced and our benefits cut and our health benefits plan gutted because we have to go in competition with a nation that will not even permit its own citizens to have their wages rise with rising productivity.

Let me mention that this Warren-based company of General Motors has 17 manufacturing plants and an engineering center in the Warren-Youngstown region in northeast Ohio, and they make wiring harnesses. Half their production goes into GM vehicles. As with Wanda's company, Vanity Fair, which had branches all over the United States, Delphi Packard has factories in Alabama, Arizona, California, and Mississippi. The workers who are standing the ground in Ohio tonight are standing in firm solidarity with workers across this Nation and, in fact, across this continent.

The striking workers have set up picket lines in Ohio. Production was stopped and no new talks were scheduled. One of the company spokesmen said today, ''One real key point for us is that Delphi Packard has worked long and hard to build a diverse customer base, a lot of non-GM customers. The difficulty of winning and growing non-GM business is so challenging that when you interrupt that supply line, the risk is you can damage that relationship.''

Union members have complained about retirement incentives for older workers and wages and benefits for newer employees who make up 55 percent of the most senior hourly workers.

What they are really fighting about are standard of living questions, living wage questions, questions of whether their contract, given their work, deserves a fair day's pay. With whom are they competing? People who do not have the ability to raise their standard of living in a nation like Mexico.

Mr. Speaker, I would like to place this story about what is happening in Ohio in the RECORD this evening at this point.

8,500 DELPHI WORKERS STRIKE IN WARREN, CITE MEXICO THREAT

WARREN, OH (AP).—A key auto industry supplier was struck today by 8,500 hourly workers who walked off the job at a General Motors Corp. subsidiary that makes electric wiring for 20 automakers worldwide.

The walkout began at 12:01 a.m., the deadline set by the International Union of Electronic Workers to reach a contract agreement on local pension and pay issues with Delphi Packard Electric Systems.

Talks broke off over the issue of job security, specifically the union's contention that the company in recent years has shifted thousands of jobs to Mexico, Mike Kowach, Local 717 vice president, said today.

''The company wanted to reserve the right to move any work out of Ohio to Mexico at any time and that they did not have to meet with us about it, and that's when the bargaining committee said we can't live with that.

''The concern is for our members working here to be able to retire from here,'' Kowach said.

A message seeking the company's response on that issue was not immediately returned.

Most pay and benefit issues were settled earlier in a national agreement between GM and the union. The contract governing local issues expired in September.

The Warren-based company has 17 manufacturing plants and an engineering center in the Warren-Youngstown region in northeast Ohio, and makes wiring harnesses. Half of its production goes into GM vehicles.

Delphi Packard also has factories in Alabama, Arizona, California and Mississippi that are not involved in the strike.

Both sides have been negotiating on local issues since mid-1996.

The striking workers set up picket lines, but other employees reported to their jobs, leading to some minor confrontations at the plant gates, according to police and the union.

Production was stopped and no new talks were scheduled, Delphi Packard spokesman Jim Kobus said today.

''One real key point for us is that Delphi Packard has worked long and hard to build a diverse customer base, a lot of non-GM customers. The difficulty of winning and growing non-GM business is so challenging that when you interrupt that supply line, the risk is you can damage that relationship,'' Kobus said.

He said it was too early to comment on when automakers might feel the effects of the walkout.

Union members have complained about retirement incentives for older workers and wages and benefits for newer employees who make 55 percent of the most senior hourly workers.

Mr. Speaker, I see that we have been joined by the gentleman from Michigan [Mr. BONIOR], our very esteemed leader. I very much appreciate the opportunity to be able to tell the story of Wanda Napier this evening. I hope at some point we can bring her to Washington and let her tell her own story. I also appreciate being able to talk about the very brave workers in Ohio who run the risk of losing their jobs because they are standing firm at a time when they feel like pawns in a very powerful system of production globally. We just want them to know that we stand with them and our hearts are with them tonight.

Mr. BONIOR. I thank my colleague for taking the time and for her leadership on this issue and for caring so

much for those who have been in many ways brutalized by a system that has run amuck in our country today and for putting a human face on this issue tonight by telling a story of a person who has gone through the difficulties and the sorrows and the change. Putting a human face on these issues is so important. We can talk numbers and we can talk statistics, but these are real people with real lives, who have families, who have hopes, who have dreams. We are watching these policies snatch away those hopes and those dreams. We have got to fight it. The gentlewoman has been at the forefront of doing that for years.

My friend from Ohio talked about what is happening in outsourcing in Warren, OH. Of course, my colleagues know that recently the Goodyear Tire & Rubber Co. was on strike. I do not know if the gentlewoman alluded to that. I was not here.

Ms. KAPTUR. I did not allude to it.

Mr. BONIOR. There were 12,500 people that went on strike to demand decent wages and benefits and to limit outsourcing, which is a serious problem. Let me say that one of the major issues of that strike was the announcement by Goodyear that it was transferring production from Akron, OH to Santiago, Chile, resulting in 150 job losses. This issue is going to continue on and on unless we seriously address the wages and worker rights in our trade agreements. That is what we are here for today. We are talking about something that the administration wants to bring to the House floor. It is called fast track. It is a way to do trade negotiations without including the Congress in the formulation of that agreement. Agreements are made, they are brought to the Congress, and it is an up-or-down yes vote on the whole agreement and we do not have a say in it. That one might be OK from our perspective if we knew that in the core agreements, there would be negotiations dealing with the environmental issues, with labor issues, the trade issue, the whole question of wages and pensions and benefits and human rights. But they are not part of these discussions, and that is why we are so concerned about them.

I would like to talk about one other thing tonight, if I could, because it is an article that appeared, and I know that we have discussed it on the floor today, the gentlewoman from Ohio [Ms. KAPTUR] and myself, and I see the gentleman from Ohio [Mr. KUCINICH] here who has an article I am going to talk about that appeared in the New York Times, I believe it was last week, it was on the front page of the business section, it says ''Borderline Working Class.'' This piece deals with the whole question of what has happened to the workers in Texas, in El Paso and all the border towns along that area.

One would have expected that there would have been a boom from listening to all the proponents of NAFTA, that this would have changed the direction of the Texas economy for the better and there would be just great trade between El Paso and these other border towns and Mexico.

I want to draw the attention of my colleagues this evening to what I call a casualty of NAFTA. It might surprise my colleagues to know that El Paso, TX, right along the border with Mexico, is a casualty of NAFTA. In last Thursday's New York Times, in the business section, there were a couple of stories. We would expect the city of El Paso, as I said, to be a winner under NAFTA. At least that is what the proponents said. But as the article in the New York Times shows, the exact opposite has taken place. The article first describes a situation of Sun Apparel, where workers stitch clothes for Polo, Fila, and Sassoon. Some of the women who work at Sun Apparel in El Paso made slightly more than $4.75 an hour, which is the minimum wage. Even after 15 years of work, these women are making $4.75 an hour. But last month, Sun Apparel eliminated 300 jobs at the plant and shifted work to Mexico. Those workers, and 320 more who lost their job last year, were certified by the Labor Department as having lost their jobs through NAFTA. In Mexico, garment workers are usually paid $1 an hour. So the minimum wage does not even protect you anymore.

Mr. Speaker, El Paso is where the rest of America is starting to catch up to, becoming fully integrated with the Mexican economy. Workers in El Paso must accept the minimum wage because the wages are so much lower just across the border. El Paso has lost more jobs to Mexican trade as certified by the Labor Department than anywhere else. Of the 5,600 workers who have been certified, only a fraction took advantage of the retraining program for NAFTA job loss victims. According to this Times article, and this is significant, that program left these workers with no skills or no jobs. The Federal Government has spent $18 million on retraining people in El Paso under this program, without any real results, and will be spending another $4.5 million more to retrain workers yet again. In fact, the mayor of El Paso, who was once a champion of NAFTA, is now a critic of the agreement. El Paso's unemployment rate is soaring. It is up to 11 percent. Juarez, just across the border from El Paso, has 177,000 maquiladora jobs by the end of last year. It has gained 77,000 of those jobs in the last 2 years alone. NAFTA has driven thousands of jobs out of El Paso and depressed the wages of its workers.

□ 2015

Ms. KAPTUR. Mr. Speaker, that is some level of a sucking sound south, is it not?

Mr. BONIOR. It is certainly one of the largest Hoover vacuum cleaners that I have ever heard.

Ms. KAPTUR. And by the way, they are moving jobs, if the gentleman will yield, out of Canton, OH, to Mexico as well.

Mr. BONIOR. Canton, Ohio, and I can name some places in Michigan, and of course our friend, the gentlewoman from Missouri [Ms. DANNER] was up here the other day talking about the two plants in her district that have moved entirely out.

But you know it is not just the jobs. It is that downward pressure on wages. And I want to emphasize that tonight because we talk about jobs, but it is that constant pressure of the American worker that the employer comes to the bargaining table with them and says: ''Listen, if you do not take a freeze in your wages or a cut in your wages or a cut in your health benefits, your pension benefits, we are out of here. We are going south.''

And as the chart that is next to the gentlewoman from Ohio illustrates, there was a study done by the Labor Department recently that was suppressed that showed that 62 percent of United States employers threatened to close plants rather than negotiate with or recognize a union implying or explicitly threatening to move jobs to Mexico; 62 percent.

They said to these folks, ''You know, we can just go south, and we will go south,'' and that is driving down wages.

Now for those people who actually do lose their job, and we have had anywhere between a quarter of a million and 600,000; we do not know the exact figure, but it is high; and we know we have got a trade deficit with Mexico now. We had a surplus of about $2 billion before NAFTA; it is about $16 billion deficit now, and that translates into about 600,000 jobs if you use the proponents' formula. We know that of those people who have lost their jobs a good many of them, probably most of them, have gotten other jobs.

Mr. SANDERS. Will the gentleman yield?

Mr. BONIOR. I will. When I make my point, I will yield to my friend from Vermont. The problem is the jobs that they have got, they have gotten at about two-thirds the wage level which they were making before the original job is lost. And of course that just puts incredible pressure on them to reach a sustainable living wage for their families. So they get another job, they are sort of working two jobs, and when they are working two jobs or three jobs, they are not home for their kids' soccer game, they are not home for PTA meetings or school nights out, and then the whole family structure suffers.

So it is more than just jobs and wages. It is the whole social fabric of our society today.

And I yield to my friend from Vermont if the gentlewoman from Ohio will yield.

Ms. KAPTUR. Mr. Speaker, I am pleased to yield to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I am pleased to be here with the gentlewoman from Ohio [Ms. KAPTUR], the

gentleman from Michigan [Mr. BONIOR] and the gentleman from Ohio [Mr. KUCINICH], who are leading the fight against NAFTA.

The gentleman from Michigan makes an important point about wages, and let me ask my friends this question:

Every day that we pick up the newspaper we hear about the booming American economy. Do we not? In fact there was an article in the paper about how we have to clamp down on the boom, it is just off the wall it is so fantastic. But if you read page 62 in the little print about the boom when they talk about the wages that middle-class workers are getting in the midst of this boom, what do you find? My goodness. The real wages for American workers are continuing to decline.

Yes, the CEO's of major corporations saw a 54-percent increase in their compensation. Yes, the stock market is hitting off the wall. Yes, the rich are getting richer. But what about the average worker?

Mr. Speaker, the front pages of corporate America's newspapers do not talk about it, but for the average American worker, despite all of the so-called boom, the real wages are going down, people continue to work longer hours for low wages, and one of the reasons why is precisely what the gentlewoman from Ohio [Ms. KAPTUR] and the gentleman from Michigan [Mr. BONIOR] are talking about. If our workers are forced to compete against desperate people in Mexico or in China who are trying to get by on starvation wages, if we merge these economies what is the ultimate result?

Mr. Speaker, it does not take an Einstein to figure it out. If there is a employer over here who is going to pay somebody 50 cents an hour, why are they going to pay you $15 or $20 an hour?

I would submit for the RECORD a remarkable article. Many of you must have seen it. It was April 27, 1997, the Associated Press, and what they talk about is Nike in Vietnam. Now Nike has a habit of going to wherever in the world wages are at rock bottom. Mexico is much too high wage for Nike. They are now in Vietnam. They have determined that wages in Vietnam are the lowest in the world.

Let me quote this:

> In demonstrations on Friday workers burnt cars and ransacked the factory's office saying the company, Nike, was not paying them a $2.50 cents a day minimum wage.

That is our competition. That is what, much of what, the global economy is about.

American workers, you really want to compete? Are you ready to go below $2.50 an hour? Nike might come back to America and hire you if you are ready to go for $2 a day. Ready to do that?

And that is, I think, the point that we are trying to make, and that is how it ties into the most important issue which is the declining wages.

Mr. BONIOR. And I think the Nike Corp., and correct me if I am wrong, you have the article in front of you; they are paying the workers in Vietnam 30 cents an hour.

Mr. SANDERS. That is about right.

Mr. BONIOR. Thirty cents an hour.

Now I mean the Disney Corp. engages in the same situation. I mean they had a guy who they fired as their president, Michael Ovitz. They paid him $90 million, severance package; he got $90 million to be fired, and the guy who fired him got $776 million over a 10-year period in the contract.

Now having said that, they make their clothes not in Texas, not in North Carolina, not in Illinois. They have those sweat shirts and those hats all stitched down in Haiti where they pay people 28 cents an hour.

I was watching the evening news, I forgot what network had it on this weekend, but they did a story about the Caribbean basin, I suspect a follow-up or during the President's visit down there. They are losing jobs to Mexico, the Caribbean basin countries. The Caribbean basin countries are losing all types of jobs to Mexico because they are getting a better deal in Mexico because of the NAFTA agreement and the low wages and the guaranteed investment.

This NAFTA is broken. I mean, they want us to move ahead with the fast track that will include other countries based on what we have under NAFTA, and it is like your house being on fire and your basement being flooded. You do not add another addition while that is all happening. You fix it first before you go on. And before we move ahead on fast track it seems to me, and to us, I think, is that we have got to correct a very inequitable, unfair situation in which the gentlewoman from Ohio has depicted in human terms very well this evening, and I thank her for it.

Ms. KAPTUR. Mr. Speaker, if I might just reclaim a moment here before recognizing our wonderful colleague from Ohio? The gentleman from Michigan [Mr. BONIOR] has been a champion. I remember during the NAFTA debate he said this is our way of life, we are fighting for our way of life, this is who we are. We are not talking about something that is out there; it is about the struggle that we have had to create a middle class and allow people to sustain themselves and to experience the best that American life has to offer, and the country owes the gentleman a debt of gratitude, not just our region, but the whole country, and I thank the gentleman for sticking with us on this. I just wanted to mention that when you were saying that probably the biggest threat in these trade agreements when they are not well-balanced and people, many people, are not at the table, creates this downward pressure on our living standards, on our wages.

This is an excellent poster that we have blown up here that came from a company in Illinois, and they told their workers that the workers' jobs might go south for more than just the winter, and it says on the bottom this was posted on the company bulletin board. This is an automotive plant. It says, ''There are Mexicans willing to do your job for $3 to $4 an hour. The free trade treaty allows this.''

And that is not just a subtle message to the work force, but it is that the downward pressure is heavy duty, and that is why workers at plants like the Delphi plant in Warren, OH, have said, all right, you want to draw a line in the sand, we are drawing the line for America.

So I think this is proof in the pudding of exactly what you are talking about, and I wanted to thank the gentleman from Vermont [Mr. SANDERS] for coming down here this evening and being with us. It seems like we were here before, we were here before and we tried to tell this story. Now we have 3 years of experience to measure, and we intend to measure, and we have new Members like the gentleman from Ohio [Mr. KUCINICH] who has hit the ground running here, who comes from having been mayor of Cleveland and comes from a place that has experienced the industrial and agricultural transformation over the last several decades, has lots to say on this, and we welcome you this evening.

Mr. KUCINICH. Thank you very much, and I am certainly glad to join the delegation of which you are a leader in this effort to call to the attention of the American people so many of the inequities which exist in our trade agreement known as NAFTA, and it is certainly a pleasure to be in the Congress of the United States with such leaders as you and the gentleman from Michigan [Mr. BONIOR] and the gentleman from Vermont [Mr. SANDERS] who are outstanding spokespersons on this issue to let the American people know what is going on because people who follow government always want information so that they can make intelligent decisions about whether or not they support policies.

And when I saw the gentlewoman from Ohio [Ms. KAPTUR] produce that poster, which I have a copy of as well, with the UAW: Your jobs may go south for more than just the winter; this was distributed in an attempt to frustrate what we in this country recognize as the basic right of working people to associate and organize. And when an organizing drive was occurring in Macomb, IL, at this company, it was NTN Bauer, these leaflets began appearing throughout the plant. There are Mexicans willing to do your job for $3 to $4 an hour; free trade treaty allows that.

So what NAFTA has produced is a different type of behavior on the part of those who are running the companies where workers are now threatened, and they are threatened in an insidious way because, if we in this country do not always have the ability to exercise our most basic rights as citizens, which we recognize as the right of association guaranteed in the first amendment and derived from that the

right to organize, the right to be able to affiliate, the right to be able to extend into areas like collective bargaining; if we have a trade agreement that effectively can lead others to trash those basic rights, then we have a trade agreement which abrogates some of the rights which the people of this country gained when this country was founded over 200 years ago.

Now what then can be the remedy? Well, there certainly is a remedy, and that is the Fast Track Accountability Act which specifically provides that workers' rights must be protected, that we would adopt and enforce laws to extend internationally recognized workers' rights in any country involved, and those rights would include, and we would codify this, this would be in the law, the rights of freedom of association, the right to organize, which Congressman SANDERS talked about in one of our last discussions, the right to organize and bargain collectively, the prohibition of force or compulsory labor, establishment of a minimum wage for the employment of children and acceptable working conditions with respect to minimum wage and hours of work and occupational safety and health.

Some will say, well, we have some of that in existing NAFTA. We have very weak side agreements which are not really enforceable, and there is no punishment if someone does not abide by and respect the rights of workers. The same is true of environmental standards. NAFTA is causing a leveling down of environmental standards.

We know also from other trade agreements the World Trade Organization can in fact impose, in effect abrogating our Constitution, can attack our sovereignty by saying that our environmental standards, which help to assure the quality of life in this country, in effect are an impermissible trade barrier and therefore the United States must either pay a fine or other action will be taken against the country. This attacks our sovereignty as a nation.

☐ 2030

So we need in a fast track agreement guarantees not only to protect workers, not only to protect labor, but to protect the environment as well, which would mitigate global climate change, which would cause a reduction in the production of ozone depleting substances, which would ban international dumping of highly radioactive waste and all of these things which we need to put in the law. That is the only way that fast track should ever be considered. Those must be in the law, and once it gets into law, if there is a violation, then we could treat it as an actionable unfair trade practice, subject to potential sanctions such as withdrawal of free trade privileges.

Now, we are not helpless in this country. We have the ability to retake, to regain control of our destiny. We have an ability to reclaim our sovereignty so that the World Trade Organization is not in effect nullifying the laws made by this Congress. But the only way we can do that is that as long as NAFTA exists, and I certainly am not an advocate for that, but as long as it does exist, the only way we can move forward is through having labor and environmental standards, high standards which must be at the core of any agreement.

Mr. Speaker, that is something I offer for my colleagues' consideration, because I think that is something that would enable the public, which watches these events so carefully, to have a little bit more confidence in these kinds of agreements. We must secure workers' rights. If we do not do that, if we are not willing to do that in international trade agreements, we will sacrifice the rights of workers here at home, and that will lead to a deterioration of our democratic society.

Mr. BONIOR. Mr. Speaker, if the gentleman would yield on that point, because that is really a key point here. When we talk about these agreements, we talk about them in terms of trade, we talk about them in terms of tariff, and I tried to broaden it with my colleagues here this evening to talk about the environment and labor rights and human rights.

The gentleman mentioned something just now that goes deeper than even that, it goes to the depths of what we are about as a country, it goes to the heart of our system, it goes to democracy. The gentleman used the word democracy. That is what this is about.

The proponents of this fairlyland globalized trade scheme that we are now engaged in want to take us back to the 19th century, before people had these basic rights. I am talking about worker rights now, the right to organize, to assemble, to freely associate, to form unions, to collectively bargain, the right to strike, the right to have certain labor standards and job protections and safety standards.

That just did not happen, that happened because a lot of people struggled for 100 years to make it happen. They marched, they were beaten, they lost their jobs, they were killed, they were assassinated in order for us to have these rights, to be able to come together and bargain for our work.

As a result of those sacrifices, the wealthiest and most prosperous Nation in the world and the largest middle class in the history of the Earth, of this world, was developed. And now, we are, through our trade agreements, creating a situation in which there is a rush to the bottom rung to roll back all of these rights.

The woman who works at Sun Apparel making $4.75 an hour lost her job, making the minimum wage. The minimum wage does not even help her anymore, because we have made a marriage with Mexico on the economy and it is across the border. Now she has to compete at a lower level, she has to compete without job security, she has to compete without environmental safeguards there along the border and along the river.

So it is more than just jobs and tariffs and downward pressures on wages, it is about being able to come together as people and organize and to assemble and to bargain for your sweat.

Mr. SANDERS. Mr. Speaker, if the gentleman would yield, I think the proof basically is in the pudding; is it not? Now, if the trade policies and our current economic policies are working well, then the proof is there. Then we will have an expanding middle class; right? Then the new jobs that are being created will pay people decent wages; is that not correct? Then we will have a society where the gap between the rich and the poor grows narrower.

But what in fact has been happening since the development of these trade policies? What we now have in the United States is the wealthiest 1 percent of the population owning 42 percent of the wealth, which is more than the bottom 90 percent. Now I think we have not been totally fair tonight, because I think we should acknowledge that these trade agreements do do some people good.

Mr. BONIOR. They do, Mr. Speaker.

Mr. SANDERS. Mr. Speaker, we have to be honest about it, yes, for the vast majority of workers, wages are going down. Yes, we have lost hundreds of thousands of jobs for our working people, but we have not been totally fair tonight; and that is we must acknowledge that some people are doing well. We have to say that, and we do have to point out that the CEO's of major American corporations last year, and I am sure everybody will be happy to hear this, especially if you are among the richest 1 percent, saw a 54 percent increase in their compensation.

So some people are doing very well. The average worker has seen a decline in his or her wages, but the richest people in America have never had it so good. So that explains to us why they pour millions and millions of dollars into their lobbyist friends and their television ads and newspaper ads telling us why we should support NAFTA and GATT.

The trade agreement is working for all of you out there who are millionaires and billionaires. In fact, over the last 15 years it is rather remarkable. While the real wages of American workers have gone down, we have seen a proliferation of millionaires.

In 1982 there were 12 billionaires in the United States, 12 billionaires. Today there are 135. So in all fairness, these trade agreements are working very well for millionaires and billionaires. But for the vast majority of our people, they are resulting in significant job loss and the pressure to lower wages.

Now, some people will say, I do not work in a factory, it does not affect me. What is my problem? It does affect you, it affects you because when UAW workers see their wages go down, then when your employer, even if you are in

a nonunion shop, has to deal with you, what he will say is, hey, I do not have to pay you $15 an hour, I can pay you $12, I can pay you $8 an hour. If we have Mexican workers prepared to work for 50 cents an hour, I will start you off at $5 an hour.

Mr. Speaker, one of the scariest aspects about the new economy is the decline in real wages of high school graduates. These are the young people who have never gone to college. What we are talking about is entry level jobs for young Americans graduating high school, for young men it is 30 percent less than what it was 15 years ago. For young women it is 17 percent less.

Mr. BONIOR. Mr. Speaker, that is a phenomenal figure. If the gentleman will repeat that again, because some of us are aware of it, but a lot of folks in this country do not understand that as the gentleman points out, the people at the very top, in fact, it goes down. People in the top 5 percent in America are doing very well today, but beyond that, it slips dramatically.

Mr. SANDERS. Mr. Speaker, for young people graduating high school, their entry level jobs are now paying 30 percent less than was the case 15 years ago. For young women, it is about 17 or 18 percent less.

Furthermore, Americans at the lower end of the wage scale are now the lowest-paid workers in the industrialized world. Eighteen percent of American workers with full-time jobs are paid so little that their wages do not enable them to live above the poverty level. Welcome to the global economy.

The point that the gentleman from Michigan [Mr. BONIOR] made earlier, in many ways, what this economy is looking like is what Mexico is: a few people at the top, and millions of people struggling just to exist.

Ms. KAPTUR. Mr. Speaker, if I could just make a brief point, last night I was in Lima, OH, giving a speech to a large number of people. And afterwards three different citizens came up to me, two who were high school graduates, and one a mother of a gentleman who is 30 years old but is working in a temporary position. And that is the fastest work category in our country, fastest growing category, temporary work. She said: ''Marcy, my son is worried because in two weeks he loses his temporary job.''

It is not just low wages of these workers, it is the insecurity of not knowing whether there will be a job for them. The other two young men that were there were just seeking work, seeking to better themselves, having to work at jobs like Payless Shoes, which imports all of its shoes. And when you are a manager for a lot of those jobs, you qualify for food stamps.

Is this the kind of America that we want to produce, one where when you work, and in Mexico, as we were told by the people down there, they work for hunger wages. These people in Lima, OH last night had several problems in trying to locate steady, well-paying jobs where they could secure a future for themselves and their family.

Mr. BONIOR. Mr. Speaker, as the gentlewoman knows, the largest employer in the country today is not General Motors, it is Manpower temporary services. The company pays no health benefits, no pensions. It is temporary work, the largest employer, and it is moving more and more in that direction.

I wanted to expand on what both of my colleagues have just said about the workers. Because it is not just happening here in America, in the United States, it is occurring, as the gentleman pointed out, in Mexico as well.

When we began the NAFTA debate, the worker in Mexico was making $1 an hour. Now that worker, and I have seen it with my own eyes in a trip that I took down there two months ago, is making 70 cents an hour. The people at the top in Mexico, they have created an incredible burst of billionaires, a class of billionaires down there.

I have a friend who told me, and I do not know if this is true, but I am reluctant to repeat it tonight, but I have a sense that it is, because he is very conservative in his estimates and he understands these issues very well. And he is a very learned person, who told me that in Del Mar, a little town north of San Diego in California, there are 600, 600 millionaires with Mexican citizenship, 600. So the wealthy make their money, they live often across the border here, and the workers are being paid 70 cents an hour. Their value of their wages have, since NAFTA, declined 30, 40 percent. So it is workers on both sides of the border.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield on one point?

As the gentleman is talking, I am thinking about when NAFTA was discussed here, and we were told President Salinas had the greatest democratic heart, with a small D, beating in this century. Can you imagine a President of the United States being so disgraced that he then is a man without a country?

That gentleman who headed Mexico now may be living in Ireland, for all we know, and his brother is in jail, and will be standing trial for drug-related charges, and we act, I mean the proponents act as if nothing happened.

Mr. BONIOR. Mr. Speaker, all the editorial writers in the country, they thought Mr. Salinas was a great guy. He went to Harvard and he is going to take Mexico into the next millennium and they were just as proud as punch to be affiliated and associated with him. The fact of the matter is he has not turned out very well, nor has his brother, nor has his policies. You would expect somebody to recognize this and say well, we made a mistake, but no, they cannot admit they made a mistake. My goodness, gracious, they are infallible, because they are, as the gentleman from Vermont [Mr. SANDERS] says, part of this whole corporate machine, this multinational transnational machine which spews this stuff out in the press on a daily basis about the upstanding, wonderful nature of these leaders and tries to pull the wool over everyone's eyes.

Mr. SANDERS. Mr. Speaker, if the gentleman would yield for a moment, I remember during the NAFTA debate, one of the frustrations that we had is that virtually every major newspaper, without exception, every major newspaper in America told us how great the NAFTA agreement would be.

Now I am wondering if anybody here tonight knows if there has been one of those newspapers yet that has apologized to their readers and has said, whoops, we were wrong. Are my colleagues aware of any newspapers that have made that statement?

Ms. KAPTUR. Mr. Speaker, I am not aware of a single one, I would say to my colleague.

Mr. BONIOR. Mr. Speaker, I am not either, but just in 30 seconds here, I read the New York Times very carefully, because it is a good newspaper and I generally agree with them, not all of the time, with their editorials, and they are starting to express themselves in ways that they understand that there was something very wrong with NAFTA.

They are not going to admit that they were wrong, but they have been writing editorials recently with respect to the environment and Chile and labor standards, and so there is starting to be a slight sign, but that is about it. The rest of the business has been very silent, as the gentleman has indicated.

Ms. KAPTUR. Mr. Speaker, we just want to thank all of the membership for listening and for those who are tuned in on public broadcasting or C–SPAN, we want to thank the public for their interest in NAFTA, and more to come.

□ 2045

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1469, EMERGENCY SUPPLEMENTAL APPROPRIATIONS, 1997

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–96) on the resolution (H. Res. 146) providing for consideration of the bill (H.R. 1469) making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEFNER (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of funeral for a family member.

Mr. SCHIFF (at the request of Mr. ARMEY), through June 30, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. LOWEY) to revise and extend their remarks and include extraneous material:)

Mr. HILLIARD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 5 minutes, on May 14.

Mr. FORBES, for 5 minutes each day, on today and May 14.

Mr. DREIER, for 5 minutes each day, on May 14, 15, and 16.

Mr. GIBBONS, for 5 minutes, on May 14.

Mr. METCALF, for 5 minutes, on May 14.

Mr. RYUN, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes each day, on today and May 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. LOWEY) to revise and extend their remarks and include extraneous material:)

Mr. DOYLE.
Mr. UNDERWOOD.
Mrs. MEEK of Florida.
Mr. HAMILTON.
Mr. LANTOS.
Mr. LIPINSKI.
Mr. HINCHEY.
Mr. KENNEDY of Massachusetts.
Mr. FROST.
Mr. KUCINICH.
Mr. SCOTT.
Mr. GEJDENSON.
Mrs. LOWEY.

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. FORBES.
Mr. DAVIS of Virginia.
Mr. KIM.
Mrs. ROUKEMA.
Mr. GRAHAM.
Mr. GINGRICH.
Mr. SOLOMON.
Mr. SOUDER.
Mr. WATTS of Oklahoma.
Mr. GILMAN.

(The following Members (at the request of Mr. MCINNIS to revise and extend their remarks and include extraneous material:)

Mr. ACKERMAN.
Mr. BROWN of California.
Ms. HOOLEY of Oregon.
Mr. CARDIN.
Mr. GILCHREST.
Mr. SKAGGS.
Mr. PACKARD.
Mr. SAM JOHNSON of Texas.
Mr. MILLER of California.
Mr. BORSKI.
Mr. HINOJOSA.
Mr. SHERMAN.
Mr. ENGEL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred to as follows:

S. Con. Res. 26. Concurrent resolution to permit the use of the rotunda of the Capitol for a congressional ceremony honoring Mother Teresa.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 14, 1997, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized by various Committee, House of Representatives, during the 1st quarter of 1997, pursuant to Public Law 95–384, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Eva Clayton	1/23	1/26	Argentina		798.00		3,545.95				4,343.95
	1/26	1/28	Chile		531.11						531.11
Hon. Calvin M. Dooley	1/23	1/26	Argentina		798.00		3,545.95				4,343.95
	1/26	1/28	Chile		531.11						531.11
Hon. Thomas Ewing	1/23	1/26	Argentina		798.00		3,649.95				4,447.95
	1/26	1/28	Chile		531.11						531.11
Hon. Sam Farr	1/23	1/26	Argentina		798.00		3,771.95				4,569.95
	1/26	1/28	Chile		531.11						531.11
Hon. Robert F. Smith	1/23	1/26	Argentina		798.00		3,324.95		58.40		4,181.35
	1/26	1/28	Chile		531.11						531.11
Hon. Charles Stenholm	1/23	1/26	Argentina		798.00		3,352.95				4,150.95
Hon. Lynn Gallagher	1/23	1/26	Argentina		798.00		3,545.95				4,343.95
	1/26	1/28	Chile		531.11						531.11
Hon. Laverne Hubert	1/23	1/26	Argentina		798.00		3,545.95				4,343.95
	1/26	1/28	Chile		531.11						531.11
Bryce Quick	1/23	1/26	Argentina		798.00		3,545.95				4,343.95
	1/26	1/28	Chile		531.11						531.11
Paul Unger	1/23	1/26	Argentina		798.00		3,545.95				4,343.95
	1/26	1/28	Chile		531.11						531.11
Hon. Sanford Bishop	3/22	3/28	Canada		1,338.05		(3)				1,338.05
	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Saxby Chambliss	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Helen Chenoweth	3/26	3/28	Canada		446.85		(3)				446.85
	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Michael Crapo	3/22	3/28	Canada		1,338.05		(3)				1,338.05
Hon. Earl Hilliard	3/22	3/28	Canada		1,338.05		(3)				1,338.05
	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Frank Lucas	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Collin Peterson	3/22	3/28	Canada		1,338.05		(3)				1,338.05
Hon. Nick Smith	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Robert F. Smith	3/22	3/28	Canada		1,338.05		(3)		2,894.39		4,232.44
	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Hon. Charles Stenholm	3/23	3/28	Canada		1,231.78		[4] 329.00				1,560.78
Andrew Baker	3/22	3/28	Canada		1,338.05		(3)				1,338.05
	3/30	4/4	Mexico		995.50		[5] 1,251.42				2,246.92
Sharla Moffett	3/22	3/28	Canada		1,338.05		(3)				1,338.05
Michael Neruda	3/22	3/28	Canada		1,338.05		(3)				1,338.05
Bryce Quick	3/22	3/28	Canada		1,338.05		(3)				1,338.05
	3/30	4/5	Mexico		1,178.50		[5] 1,348.42				2,526.92
Jason Vaillancourt	3/22	3/28	Canada		1,338.05		(3)				1,338.05
Mason Wiggins	3/31	4/5	Mexico		1,008.00		(3)				1,008.00
Paul Unger	3/22	3/28	Canada		1,338.05		(3)				1,338.05
	3/30	4/5	Mexico		1,178.50		[5] 1,926.42				3,104.92

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Committee total					40,573.67		40,230.76		2,952.79		83,757.22

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] In addition to military transportation.
[5] Commercial airfare.

BOB SMITH, Chairman, Apr. 28, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Sonny Callahan	1/11	1/13	Israel		417.00		(3)				417.00
	1/13	1/14	Jordan		251.00		(3)				251.00
	1/14	1/17	Egypt		701.00		(3)				701.00
	1/17	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Hon. Jay Dickey	1/9	1/12	China		702.00		(3)				702.00
	1/12	1/13	Thailand		217.00		(3)				217.00
	1/13	1/15	Cambodia		555.00		(3)				555.00
	1/15	1/18	Hong Kong		1,163.00		(3)				1,163.00
Hon. Thomas Foglietta	3/7	3/10	Haiti		736.00		1,005.95				1,741.95
Hon. Michael Forbes	1/11	1/13	Israel		417.00		(3)				417.00
	1/13	1/14	Jordan		251.00		(3)				251.00
	1/14	1/17	Egypt		701.00		(3)				701.00
	1/17	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Hon. Joe Knollenberg	1/11	1/13	Israel		417.00		(3)				417.00
	1/13	1/14	Jordan		251.00		(3)				251.00
	1/14	1/17	Egypt		701.00		(3)				701.00
	1/17	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Hon. Nita Lowey	1/11	1/13	Israel		417.00		(3)				417.00
	1/13	1/14	Jordan		251.00		(3)				251.00
	1/14	1/17	Egypt		701.00		(3)				701.00
	1/17	1/18	Morocco		195.00		(3)				195.00
	1/19	1/19	Ireland		176.00		(3)				176.00
Commercial airfare							684.93				684.93
Hon. Dan Miller	1/9	1/12	China		702.00		(3)				702.00
	1/12	1/13	Thailand		217.00		(3)				217.00
	1/13	1/15	Cambodia		555.00		(3)				555.00
	1/15	1/18	Hong Kong		1,163.00		(3)				1,163.00
Hon Ron Packard	1/11	1/13	Israel		417.00		(3)				417.00
	1/13	1/14	Jordan		251.00		(3)				251.00
	1/14	1/17	Egypt		701.00		(3)				701.00
	1/17	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Hon. John Porter	1/9	1/12	China		702.00		(3)				702.00
	1/12	1/13	Thailand		217.00		(3)				217.00
	1/13	1/15	Cambodia		555.00		(3)				555.00
	1/15	1/18	Hong Kong		1,163.00		(3)				1,163.00
Hon. Joe Skeen	1/29	2/1	Panama		225.00		(3)				225.00
Commercial airfare							1,330.95				1,330.95
Hon. John Murtha	3/24	3/25	Macedonia		199.00		(3)				199.00
	3/25	3/25	Bosnia								
	3/25	3/26	Hungary		247.00		(3)				247.00
	3/26	3/27	Belgium		292.00		(3)				292.00
Hon. Charles Taylor	2/16	2/21	Russia		1,537.00		(3)				1,537.00
Commercial airfare							1,885.95				1,885.95
Hon. James Walsh	2/14	2/15	Ireland		543.00		(3)				543.00
	2/15	2/18	England		1,002.00		(3)				1,002.00
Commercial airfare							449.15				449.15
Hon. Roger Wicker	1/9	1/12	China		702.00		(3)				702.00
	1/12	1/13	Thailand		217.00		(3)				217.00
	1/13	1/15	Cambodia		555.00		(3)				555.00
	1/15	1/18	Hong Kong		1,163.00		(3)				1,163.00
Hon. Frank Wolf	1/9	1/11	Thailand						115.00		115.00
	1/12	1/16	Indonesia		781.00		(3)				781.00
	1/16	1/17	Hong Kong		205.00		(3)				205.00
Commercial airfare							5,096.57				5,096.57
John Blazey II	1/10	1/11	Panama		378.00		(3)		45.00		423.00
	1/12	1/15	Bolivia		448.00		(3)				448.00
	1/16	1/17	Colombia		424.00		(3)				424.00
	1/17	1/20	Puerto Rico		600.00		(3)				600.00
Commercial airfare							977.00				977.00
James Dyer	1/14	1/16	Egypt		701.00		(3)				701.00
	1/16	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Commercial airfare							2,275.20				2,275.20
James Dyer	3/24	3/25	Macedonia		199.00		(3)				199.00
	3/25	3/25	Bosnia								
	3/25	3/26	Hungary		247.00		(3)				247.00
	3/26	3/27	Belgium		292.00		(3)				292.00
Charles Flickner	1/14	1/16	Egypt		701.00		(3)				701.00
	1/16	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Commercial airfare							2,275.20				2,275.20
Douglas Gregory	2/16	2/17	Panama		129.00		(3)				129.00
	2/17	2/18	Colombia		162.00		(3)				162.00
Stephanie Gupta	1/26	1/29	Luxembourg		816.00		(3)		63.74		879.74
Commercial airfare							3,212.85				3,212.85
Wiliam Inglee	1/11	1/13	Israel		417.00		(3)				417.00
	1/13	1/14	Jordan		251.00		(3)				251.00
	1/14	1/17	Egypt		701.00		(3)				701.00
	1/17	1/18	Morocco		195.00		(3)				195.00
	1/19	1/20	Ireland		352.00		(3)				352.00
Therese McAuliffe	1/10	1/11	Panama		378.00		(3)				378.00
	1/12	1/15	Bolivia		448.00		(3)				448.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	1/16	1/17	Colombia		424.00		([3])				424.00
	1/17	1/20	Puerto Rico		635.00		([3])				635.00
Commercial airfare							1,208.00				1,208.00
Carol Murphy	1/29	2/1	Panama		225.00		([3])				225.00
Commercial airfare							638.95				638.95
Mark Murray	1/11	1/13	Israel		417.00		([3])				417.00
	1/13	1/14	Jordan		251.00		([3])				251.00
	1/14	1/17	Egypt		701.00		([3])				701.00
	1/17	1/18	Morocco		195.00						195.00
	1/19	1/20	Ireland		352.00		([3])				352.00
John Plashal	3/24	3/25	Macedonia		199.00		([3])				199.00
	3/25	3/25	Bosnia								
	3/25	3/26	Hungary		247.00		([3])				247.00
	3/26	3/27	Belgium		292.00		([3])				292.00
John Shank	1/9	1/12	China		702.00		([3])				702.00
	1/12	1/13	Thailand		217.00		([3])				217.00
	1/13	1/15	Cambodia		555.00		([3])				555.00
	1/15	1/18	Hong Kong		1,163.00		([3])				1,163.00
John Ziolkowski	1/29	2/1	Panama		225.00		([3])				225.00
Commercial airfare							638.95				638.95
Committee total					41,452.00		21,679.65		223.74		63,355.39
Committee on Appropriations, Surveys and Investigations staff:											
Bertram F. Dunn	1/28	1/30	Okinawa		326.25		4,611.22		102.00		5,039.47
Norman H. Gardner, Jr	1/18	1/25	Japan		1,349.00		4,982.03		29.70		6,361.63
	1/25	1/30	Korea		1,310.00						1,310.00
Carroll L. Hauver	1/18	1/25	Japan		1,349.00		4,982.93		48.50		6,380.43
	1/25	1/30	Korea		1,310.00						1,310.00
Robert J. Reitwiesner	1/26	1/30	Korea		1,048.00		3,577.95		39.80		4,665.75
R.W. Vandergrift, Jr	1/18	1/22	Japan		813.25		4,905.43		63.90		5,782.58
Peter T. Wyman	1/28	1/30	Okinawa		326.25		4,611.22		76.00		5,013.47
Committee total					7,831.75		27,671.68		359.90		35,863.33

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON, Chairman, May 6, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Constance Morella	1/9	1/12	Beijing		702.00		30.29		128.90		861.19
	1/12	1/13	Thailand		217.00		19.19		256.48		492.67
	1/14	([3])	Vietnam		555.00		190.50		121.50		867.00
	([3])	1/18	Hong Kong		([3])		([3])		([3])		
Committee total					1,474.00		239.98		506.88		2,220.86

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Information not available from Department of State, May 5, 1997.

DAN BURTON, Chairman, May 5, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Israel, Jordan, Egypt and Morocco, January 11–18, 1997:											
Hon. Terry Everett	1/11	1/13	Israel		417.00						417.00
	1/13	1/14	Jordan		251.00						251.00
	1/14	1/17	Egypt		701.00						701.00
	1/17	1/18	Morocco		195.00						.195.00
Commercial airfare							2,743.68				2,743.68
Visit to Japan, Korea and Thailand, January 13–20, 1997:											
Hon. Floyd D. Spence	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Hon. Duncan Hunter	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Hon. Solomon P. Ortiz	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
Commercial airfare							1,379.95				1,379.95
Hon. Owen B. Pickett	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Hon. Steve Buyer	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Hon. Tillie Fowler	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Hon. Howard "Buck" McKeon	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Hon. Andrew K. Ellis	1/13	1/15	Japan		656.00						656.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Peter M. Steffes	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Andrea K. Aquino	1/13	1/15	Japan		656.00						656.00
	1/15	1/17	Korea		624.00						624.00
	1/17	1/20	Thailand		651.00						651.00
Visit to China, Hong Kong and Taiwan, January 23–31, 1997:											
Hon. Curt Weldon	1/23	1/28	China		1,170.00						1,170.00
	1/28	1/29	Hong Kong		394.00						394.00
	1/29	1/31	Taiwan		564.00						564.00
Hon. Solomon P. Ortiz	1/23	1/28	China		1,170.00						1,170.00
	1/28	1/29	Hong Kong		394.00						394.00
	1/29	1/31	Taiwan		564.00						564.00
Hon. John M. McHugh	1/23	1/28	China		1,170.00						1,170.00
	1/28	1/29	Hong Kong		394.00						394.00
	1/29	1/31	Taiwan		564.00						564.00
Stephen P. Ansley	1/23	1/28	China		1,170.00						1,170.00
	1/28	1/29	Hong Kong		394.00						394.00
	1/29	1/31	Taiwan		564.00						564.00
David J. Trachtenberg	1/23	1/28	China		1,170.00						1,170.00
	1/28	1/29	Hong Kong		394.00						394.00
	1/29	1/31	Taiwan		564.00						564.00
Delegation expenses	1/23	1/28	China				1,980.09		770.64		2,750.73
	1/28	1/29	Hong Kong				302.88		1,994.82		2,297.70
Visit to Panama, Colombia, and Honduras, February 14–20, 1997:											
Hon. Gene Taylor	2/14	2/19	Panama		895.00						895.00
	2/15	2/15	Colombia		0.00						0.00
	2/19	2/20	Honduras		158.00						158.00
Commercial airfare							370.40				370.40
George O. Withers	2/15	2/19	Panama		716.00						716.00
	2/19	2/20	Honduras		158.00						158.00
Commercial airfare							948.00				948.00
Visit to Russia, February 17–21, 1997:											
Hon. Curt Weldon	2/17	2/21	Russia		1,537.00						1,537.00
Commercial airfare							1,852.66				1,852.66
Visit to China, March 24–28, 1997:											
Hon. Curt Weldon	2/24	2/28	China		(3)						
Commercial airfare							3,986.95				3,986.95
Visit to Panama, March 26–28, 1997:											
Hon. Lindsey O. Graham	3/26	3/28	Panama		202.00						202.00
Committee total					34,529.00		13,564.61		2,765.46		50,859.07

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Per diem amounts unavailable at this time.

FLOYD SPENCE, Chairman, Apr. 30, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
T.E. Manase Mansur	1/28	1/31	Marshall Islands		519.33		2,008.95				2,528.28
Bonnie Bruce	3/15	3/24	Italy	2,361,735	1,395.00		779.85				2,174.85
Jean Flemma	3/15	3/23	Italy	2,361,735	1,395.00		779.85				2,174.85
Committee total					3,309.33		3,568.65				6,877.98

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DON YOUNG, Chairman, Apr. 15, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN, JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Jim Oberstar	1/16	1/16	Canada		75.00		706.40				781.40
Michael Strachn	1/16	1/16	Canada		75.00		706.40				781.40
Arthur Chan	1/16	1/16	Canada		75.00		706.40				781.40
Hon. William Lipinski	1/9	1/12	China		702.00						702.00
	1/12	1/13	Thailand		217.00						217.00
	1/13	1/15	Cambodia		555.00						555.00
	1/15	1/18	Hong Kong		1,163.00						1,163.00
Hon. Jerry Costello	1/9	1/12	China		702.00		(3)				702.00
	1/12	1/13	Thailand		217.00		(3)				217.00
	1/13	1/15	Cambodia		555.00		(3)				555.00
	1/15	1/18	Hong Kong		1,163.00		(3)				1,163.00
Hon. Charles Pickering	2/17	2/18	Italy		242.00						242.00
	2/18	2/20	Germany		546.00						546.00
Hon. Charles Bass	2/17	2/18	Italy		242.00		(3)				242.00
	2/18	2/20	Germany		546.00		(3)				546.00
Committee total					7,075.00		2,119.20				9,194.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military airfare.

BUD SHUSTER, Chairman, Apr. 30, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Norm Dicks	2/16	2/23	South Asia		987.00						987.00
Commercial airfare							8,273.65				8,273.65
Michael Sheehy	2/16	2/20	South Asia		987.00						987.00
Commercial airfare							8,273.65				8,273.65
Ken Kodama	2/16	2/20	South Asia		987.00						987.00
Commercial airfare							8,193.65				8,193.65
Hon. David Skaggs	2/20	2/24	Europe		1,228.00				78.95		1,306.95
Commercial airfare							412.35				412.35
Committee total					4,189.00		25,153.30		78.95		29,421.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PORTER J. GOSS, Chairman, Apr. 30, 1997.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3278. A letter from the Acting Assistant Secretary for International Security Policy, Department of Defense, transmitting notification that the calendar year 1996 report on accounting for United States assistance under the Cooperative Threat Reduction [CTR] Program will be submitted on or about April 30, 1997; to the Committee on International Relations.

3279. A letter from the Chairman, Federal Election Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

3280. A letter from the General Manager, Washington Metropolitan Area Transit Authority [METRO], transmitting the comprehensive annual financial report [CAFR] for the fiscal year ended June 30, 1996, pursuant to 31 U.S.C. 3512(c)(3); jointly, to the Committees on Transportation and Infrastructure and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOODLING: Committee on Education and the Workforce. H.R. 5. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; with an amendment (Rept. 105–95). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 146. Resolution providing for consideration of the bill (H.R. 1469) making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997, and for other purposes (Rept. 105–96). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN (for himself and Mr. GILCHREST):

H.R. 1578. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GILCHREST (for himself and Mr. CARDIN):

H.R. 1579. A bill to establish a Chesapeake Bay Gateways and Watertrails Network, and for other purposes; to the Committee on Resources.

By Mr. GILMAN:

H.R. 1580. A bill to amend title 38, United States Code, to provide for certain improvements in the way in which health-care resources are allocated by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. COBLE:

H.R. 1581. A bill to reauthorize the program established under chapter 44 of title 28, United States Code, relating to arbitration; to the Committee on the Judiciary.

By Mr. COOKSEY:

H.R. 1582. A bill to amend the Internal Revenue Code of 1986 to repeal restrictions on taxpayers having medical savings accounts; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon (for herself and Mr. COOKSEY):

H.R. 1583. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from estate tax for family-owned businesses; to the Committee on Ways and Means.

By Mr. SAM JOHNSON (for himself, Mr. BURTON of Indiana, Mr. TIAHRT, Mr. BARR of Georgia, Mr. CRANE, Mr. POMBO, Mr. LEWIS of Kentucky, Mr. HOSTETTLER, Mr. SESSIONS, Mr. CHABOT, Mr. BOB SCHAFFER, and Mr. GRAHAM):

H.R. 1584. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50-percent deduction for capital gains, to index the basis of certain capital assets, to provide credits for families, to phase-out the estate and gift taxes, and for other purposes; to the Committee on Ways and Means.

By Ms. MOLINARI (for herself, Mr. FAZIO of California, and Mr. NORWOOD):

H.R. 1585. A bill to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase to certain specially issued U.S. postage stamps; to the Committee on Government Reform and Oversight, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. RIVERS:

H.R. 1586. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce.

By Mr. RUSH:

H.R. 1587. A bill to amend title 49, United States Code, to prohibit the transportation to chemical oxygen generators as cargo on any aircraft carrying passengers or cargo in air commerce, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SNOWBARGER (for himself, Mr. COBURN, Mr. HASTINGS of Washington, Mr. PITTS, Mr. WELDON of Florida, Mr. PETERSON of Pennsylvania, Mrs. NORTHUP, Mr. DICKEY, Mr. JONES, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. GRAHAM, Mr. HILLEARY, Mr. RYUN, and Mr. TIAHRT):

H.R. 1588. A bill to prohibit the payment of any arrearages for prior years in the assessed contribution of the United States to the United Nations until certain reforms in the United Nations have been implemented and a certification of such reforms has been approved by the Congress; to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCARBOROUGH:

H. Con. Res. 78. Concurrent resolution rejecting the need for an additional round or rounds of military base closures; to the Committee on National Security.

By Mr. MCKEON:

H. Res. 145. Resolution providing for the concurrence of the House with the amendment of the Senate to H.R. 914, with amendments; considered and agreed to.

By Mr. LEWIS of California (for himself, Mr. GINGRICH, Mr. GEPHARDT, Mr. STOKES, Mr. LAZIO of New York, Mr. KENNEDY of Massachusetts, and Ms. NORTON):

H. Res. 147. Resolution expressing the sense of the House of Representatives that the House of Representatives should participate in and support activities to provide decent homes for the people of the United States, and for other purposes; to the Committee on Banking and Financial Services.

MEMORIALS

Under clause 4 of rule XXII,

83. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 76

HD2 supporting implementation of expedited automatic border clearance; extension of the Visa Waiver Program; and elimination of visa requirements where possible; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FORBES introduced a bill (H.R. 1589) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and fisheries for the vessel *Precious Metal*; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. BLAGOJEVICH.

H.R. 59: Mr. SALMON, Mr. TIAHRT, Mrs. FOWLER, Mr. BATEMAN, Mr. MANZULLO, Mr. SPENCE, Mr. WELDON of Florida, and Mr. WOLF.

H.R. 69: Mr. LEWIS of Georgia and Mr. SNOWBARGER.

H.R. 71: Mr. CALVERT.

H.R. 96: Mr. BISHOP, Mr. CAMPBELL, Mr. SHUSTER, and Mr. FOGLIETTA.

H.R. 145: Mr. PASCRELL, Mr. BARCIA of Michigan, and Mr. CRAMER.

H.R. 245: Mr. CANADY of Florida.

H.R. 264: Mr. MEEHAN and Mr. TOWNS.

H.R. 306: Mr. FOLEY, Mr. MANTON, and Mr. BALDACCI.

H.R. 328: Mr. HUNTER.

H.R. 407: Mr. DOOLEY of California, Ms. WATERS, Mr. FOX of Pennsylvania, Mr. PALLONE, Mr. HOLDEN, Mrs. MCCARTHY of New York, and Mr. HORN.

H.R. 411: Mr. JACKSON and Mr. SABO.

H.R. 450: Mr. CARDIN.

H.R. 475: Mrs. LOWEY, Mr. FARR of California, and Mr. TURNER.

H.R. 598: Mr. PETERSON of Pennsylvania.

H.R. 616: Mr. COOKSEY and Mr. ENGEL.

H.R. 630: Ms. ESHOO.

H.R. 639: Mrs. CHENOWETH.

H.R. 681: Mr. BILBRAY, Mr. FAZIO of California, Mr. KIM, Mr. GALLEGLY and Mr. THOMAS.

H.R. 725: Mr. DEAL of Georgia.

H.R. 744: Mr. MARTINEZ, Mr. FORD, Ms. KILPATRICK, Mr. KLINK, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 754: Mrs. TAUSCHER.

H.R. 758: Mr. HILLEARY, Mr. ISTOOK, Mr. BONILLA, Mr. BLUNT, Mr. COMBEST, Mr. STUMP, and Mr. STEARNS.

H.R. 789: Mrs. NORTHUP.

H.R. 805: Mrs. THURMAN.

H.R. 816: Mrs. JOHNSON of Connecticut, Mrs. EMERSON, and Mr. KING of New York.

H.R. 864: Ms. CHRISTIAN-GREEN, Mr. JACKSON, Mrs. CLAYTON, Mr. ENGEL, Mr. HORN, Mr. FOX of Pennsylvania, Mr. HEFLEY, Mr. LEWIS of Georgia, and Mr. SCHUMER.

H.R. 875: Mr. RAHALL, Mr. MARKEY, Mr. WAMP, Mr. SHUSTER, Mr. CHAMBLISS, Mr. BARR of Georgia, Mr. KOLBE, Mr. WELDON of Pennsylvania, Mrs. MEEK of Florida, and Mr. HILLIARD.

H.R. 901: Mr. CAMP, Mr. KING of New York, Mr. PAPPAS, Mr. SESSIONS, Ms. GRANGER, Mr. DAN SCHAEFER of Colorado, and Mr. PACKARD.

H.R. 911: Mr. BLUNT.

H.R. 915: Mr. FILNER, Mr. DOYLE, Mr. SHAYS, Mr. CLEMENT, Mr. BARCIA of Michigan, Mr. MARTINEZ, Mr. QUINN, Mr. DAN SCHAEFER of Colorado, Mr. BLAGOJEVICH, Ms. NORTON, Mr. MASCARA, Mr. COOK, Mr. CONYERS, Mr. RAHALL, Mr. TORRES, Ms. WOOLSEY, Mr. MCGOVERN, Mr. ROTHMAN, and Ms. LOFGREN.

H.R. 919: Mr. PASCRELL.

H.R. 920: Ms. DELAURO, Mr. FORD, Ms. KILPATRICK, Mr. HOLDEN, Ms. DEGETTE, and Mr. SHAYS.

H.R. 952: Mr. JACKSON.

H.R. 955: Mr. STUMP, Mr. HUNTER, Mr. PAUL, Mr. GILLMOR, and Mr. SKEEN.

H.R. 956: Mr. MCCOLLUM and Mr. HOBSON.

H.R. 977: Mr. CHRISTENSEN, Mr. EVANS, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mr. DAVIS of Virginia, Ms. KAPTUR, Mr. SAWYER, and Mr. HILLIARD.

H.R. 979: Mr. CAMP, Mr. ADERHOLT, Mr. ETHERIDGE, Mr. FORD, Mr. BROWN of California, Mr. FARR of California, Ms. HOOLEY of Oregon, Mr. ENSIGN, Mr. MCGOVERN, and Ms. PELOSI.

H.R. 991: Mr. LEWIS of California.

H.R. 1022: Mr. PITTS and Mrs. LOWEY.

H.R. 1038: Mr. EVANS and Mr. MARTINEZ.

H.R. 1046: Mr. HALL of Ohio.

H.R. 1063: Mr. LATOURETTE, Mr. BOSWELL, Mr. BARCIA of Michigan, Mr. BAKER, Mr. PRICE of North Carolina, and Mr. BLUNT.

H.R. 1104: Ms. BROWN of Florida, Mr. CLYBURN, Mr. JACKSON, Ms. JACKSON-LEE, Mrs. MEEK of Florida, and Mr. TOWNS.

H.R. 1120: Mr. CAPPS, Mr. POSHARD, and Mr. ANDREWS.

H.R. 1130: Ms. ESHOO.

H.R. 1146: Mr. HALL of Texas.

H.R. 1147: Mr. CANADY of Florida.

H.R. 1156: Mr. ROTHMAN.

H.R. 1162: Mr. CANADY of Florida.

H.R. 1165: Mr. GRAHAM.

H.R. 1204: Mr. KINGSTON.

H.R. 1215: Mr. NEAL of Massachusetts, Mr. BLAGOJEVICH, and Mr. KENNEDY of Massachusetts.

H.R. 1245: Mr. THOMPSON.

H.R. 1248: Mr. WATTS of Oklahoma, Mr. BUNNING of Kentucky, and Mr. TURNER.

H.R. 1252: Mr. SENSENBRENNER.

H.R. 1260: Mr. CRAMER, Mr. LEACH, Mr. TANNER, Mr. MALONEY of Connecticut, Mr. GOODE, Mr. FARR of California, and Mr. WATT of North Carolina.

H.R. 1270: Mr. ROHRABACHER, Mr. RYUN, Mr. HILLEARY, Mr. MORAN of Kansas, Mr. COBLE, Mr. WELLER, Mr. TAYLOR of North Carolina, Mr. CANADY of Florida, Mr. SANFORD, Mr. DIAZ-BALART, and Mr. DUNCAN.

H.R. 1285: Mr. CRANE and Mr. FOX of Pennsylvania.

H.R. 1288: Mr. MATSUI, Mr. HINCHEY, and Mr. LEWIS of Georgia.

H.R. 1302: Mr. LEWIS of Georgia and Ms. DEGETTE.

H.R. 1306: Mr. GILMAN, Mr. CHRISTENSEN, and Mr. LOBIONDO.

H.R. 1321: Mr. PRICE of North Carolina.

H.R. 1329: Mr. BACHUS, Mr. FARR of California, Mr. EVANS, and Mr. LEWIS of Georgia.

H.R. 1335: Mr. BROWN of California.

H.R. 1353: Mr. NEUMANN and Mr. BARRETT of Wisconsin.

H.R. 1377: Mr. KOLBE, Mr. OLVER, Mr. GRAHAM, and Mr. MILLER of California.

H.R. 1379: Mrs. CHENOWETH.

H.R. 1419: Mr. CANADY of Florida and Mr. SCHIFF.

H.R. 1425: Mr. CAPPS, Mr. FILNER, Mr. VENTO, and Mr. WAXMAN.

H.R. 1437: Mr. HINCHEY and Mr. TRAFICANT.

H.R. 1443: Mr. COX of California and Mr. CAMP.

H.R. 1450: Mr. GEPHARDT and Mr. LEWIS of Georgia.

H.R. 1455: Mr. DELLUMS, Mr. PAYNE, Mr. FOX of Pennsylvania, Mr. STARK, Mr. KENNEDY of Rhode Island, and Mr. MANTON.

H.R. 1461: Mr. MCCOLLUM.

H.R. 1464: Mr. MCNULTY.

H.R. 1480: Ms. BROWN of Florida.

H.R. 1496: Mr. SHAYS.

H.R. 1500: Mr. PASCRELL and Mr. ADAM SMITH of Washington.

H.R. 1503: Mrs. NORTHUP.

H.R. 1507: Mr. GILMAN, Mr. FAZIO of California, Mr. CLYBURN, Mr. HINCHEY, Mr. MCGOVERN, and Mr. HILLIARD.

H.R. 1511: Mr. BUYER and Mr. PASCRELL.

H.R. 1515: Mr. BUYER, Mr. JACKSON, Mr. TAYLOR of North Carolina, Mr. HUTCHINSON, Mr. KLUG, and Mr. COBLE.

H.R. 1532: Mr. CUNNINGHAM, Mr. TALENT, Mr. LANTOS, Mr. GUTIERREZ, Mr. UNDERWOOD, and Mr. COX of California.

H.R. 1549: Mr. EVANS and Mr. BLUNT.

H.R. 1550: Mr. SENSENBRENNER and Mr. ROTHMAN.

H.J. Res. 59: Mrs. EMERSON.

H.J. Res. 65: Mr. THOMPSON.

H.J. Res. 67: Mr. SENSENBRENNER, Mr. MANTON, Mr. WHITFIELD, Mr. BLUNT, Mr. HILLEARY, Mr. ARCHER, and Mr. BARTON of Texas.

H.J. Res. 76: Mr. ENGLISH of Pennsylvania, Mr. ENGEL, Ms. ESHOO, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. LANTOS, Mr. MATSUI, Mr. MCHALE, and Mr. YATES.

H. Con. Res. 12: Mr. HOLDEN.

H. Con. Res. 13: Mr. JACKSON.

H. Con. Res. 55: Ms. ROYBAL-ALLARD and Mr. ROTHMAN.

H. Con. Res. 65: Mr. JOHNSON of Wisconsin, Mr. TAUZIN, Mrs. MEEK of Florida, Mr. FARR of California, Mr. FRANK of Massachusetts, Mr. STUMP, Mr. KING of New York, Mr. WALSH, Mrs. TAUSCHER, Mr. EVANS, Mr. DIAZ-BALART, Mr. BATEMAN, Mr. CALVERT, and Ms. MILLENDER-MCDONALD.

H. Con. Res. 75: Ms. BROWN of Florida, Mr. LAMPSON, and Mr. SCHIFF.

H. Res. 37: Mr. HOYER.

H. Res. 103: Mr. BARRETT of Nebraska, Mr. CUNNINGHAM, and Mr. STEARNS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 590: Mr. JOHNSON of Wisconsin.

H.R. 695: Ms. EDDIE BERNICE JOHNSON of Texas.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY: MR. NADLER

AMENDMENT NO. 55: Page 335, after line 6, insert the following new section:

SEC. 709. TRANSFER OF SURPLUS REAL PROPERTY FOR PROVIDING HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Property and Administrative Services Act of 1949), the property known as 252 Seventh Avenue in New York County, New York is authorized to be conveyed in its existing condition under a public benefit discount to a nonprofit organization that has among its purposes providing housing for low-income individuals or families provided, that such property is determined by the Administrator of General Services to be surplus to the needs of the government and provided it is determined by the Secretary of Housing and Urban Development that such property will be used by such non-profit organization to provide housing for low- and moderate-income families or individuals.

(b)(1) PUBLIC BENEFIT DISCOUNT.—The amount of the public benefit discount available under this section shall be 75 percent of the estimated fair market value of the property, except that the Secretary may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified due to any benefit which will accrue to the United States from the use of such property for the public purpose of providing low- and moderate-income housing.

(2) REVERTER.—The Administrator shall require that the property be used for at least 30 years for the public purpose for which it was originally conveyed, or such longer period of time as the Administrator feels necessary, to protect the Federal interest and to promote the public purpose. If this condition is not met, the property shall revert to the United States.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator shall determine estimated fair market value in accordance with Federal appraisal standards and procedures.

(4) DEPOSIT OF PROCEEDS.—The Administrator of General Services shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States and to accomplish a public purpose.

H.R. 1469

OFFERED BY: MR. BARR OF GEORGIA

(Supplemental Appropriations, FY97)

AMENDMENT NO. 4: Add at an appropriate place the following:

SEC. . USE OF FUNDS FOR STUDIES OF MEDICAL USE OF MARIJUANA.

None of the funds appropriated by this Act or any other Act shall be used now or hereafter in any fiscal year for any study of the medicinal use of marijuana.

H.R. 1469

OFFERED BY: MR. BARR OF GEORGIA

(Supplemental Appropriations, FY97)

AMENDMENT NO. 5: Page , after line , insert the following:

COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

For an additional amount for the operations of the Commission on the Advancement of Federal Law Enforcement, $2,000,000.

H.R. 1469

OFFERED BY: MR. BARR OF GEORGIA

(Supplemental Appropriations, FY97)

AMENDMENT NO. 6: At the end of the bill, insert after the last section (preceding the short title) the following new section:

FIREARMS PROHIBITIONS APPLICABLE BY REASON OF A DOMESTIC VIOLENCE MISDEMEANOR CONVICTION NOT TO APPLY TO CONVICTIONS OBTAINED BEFORE THE PROHIBITIONS BECAME LAW

SEC. . Subsections (d)(9), (g)(9), and (s)(3)(B)(i) of section 922 of title 18, United States Code, are each hereafter amended by inserting ‘‘, on or after September 30, 1996,’’ before ‘‘of a misdemeanor’’.

H.R. 1469

OFFERED BY: MR. DAVIS OF VIRGINIA

AMENDMENT NO. 7: Page 51, after line 23, add the following new title:

TITLE IV—PREVENTION OF GOVERNMENT SHUTDOWN

SHORT TITLE

SEC. 401. This title may be cited as the ‘‘Government Shutdown Prevention Act’’.

CONTINUING FUNDING

SEC. 402. (a) If any regular appropriation bill for fiscal year 1998 does not become law prior to the beginning of fiscal year 1998 or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any program, project, or activity for which funds were provided in fiscal year 1997.

(b) Appropriations and funds made available, and authority granted, for a program, project, or activity for fiscal year 1998 pursuant to this title shall be at 100 percent of the rate of operations that was provided for the program, project, or activity in fiscal year 1997 in the corresponding regular appropriation Act for fiscal year 1997.

(c) Appropriations and funds made available, and authority granted, for fiscal year 1998 pursuant to this title for a program, project, or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

(1) the date on which the applicable regular appropriation bill for fiscal year 1998 becomes law (whether or not that law provides for that program, project, or activity) or a continuing resolution making appropriations becomes law, as the case may be; or

(2) the last day of fiscal year 1998.

TERMS AND CONDITIONS

SEC. 403. (a) An appropriation of funds made available, or authority granted, for a program, project, or activity for fiscal year 1998 pursuant to this title shall be made available to the extent and in the manner which would be provided by the pertinent appropriation Act for fiscal year 1997, including all of the terms and conditions and the apportionment schedule imposed with respect to the appropriation made or funds made available for fiscal year 1997 or authority granted for the program, project, or activity under current law.

(b) Appropriations made by this title shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(c) Notwithstanding any other provision of this Act, whenever the rate for operations for any continuing project or activity would result in a furlough or a reduction-in-force of Government employees, that rate for operations may be increased to a level that would enable the furlough or a reduction-in-force to be avoided.

COVERAGE

SEC. 404. Appropriations and funds made available, and authority granted, for any program, project, or activity for fiscal year 1998 pursuant to this title shall cover all obligations or expenditures incurred for that program, project, or activity during the portion of fiscal year 1998 for which this title applies to that program, project, or activity.

EXPENDITURES

SEC. 405. Expenditures made for a program, project, or activity for fiscal year 1998 pursuant to this title shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of fiscal year 1998 providing for that program, project, or activity for that period becomes law.

INITIATING OR RESUMING A PROGRAM, PROJECT, OR ACTIVITY

SEC. 406. No appropriation or funds made available or authority granted pursuant to this title shall be used to initiate or resume any program, project, or activity for which appropriations, funds, or other authority were not available during fiscal year 1997.

PROTECTION OF OTHER OBLIGATIONS

SEC. 407. Nothing in this title shall be construed to effect Government obligations mandated by other law, including obligations with respect to Social Security, Medicare, Medicaid, and veterans benefits.

DEFINITION

SEC. 408. In this title, the term ‘‘regular appropriation bill’’ means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of programs, projects, and activities.

(1) Agriculture, rural development, and related agencies programs.

(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

(3) The Department of Defense.

(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

(6) The Departments of Veterans and Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

(7) Energy and water development.

(8) Foreign assistance and related programs.

(9) The Department of the Interior and related agencies.

(10) Military construction.

(11) The Department of Transportation and related agencies.

(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

(13) The legislative branch.

H.R. 1469

OFFERED BY: MR. FAZIO

AMENDMENT NO. 8: Page 5, after line 7, insert the following:

In addition, for replacement of farm labor housing under section 514 of the Housing Act of 1949 that was lost or damaged by flooding that occurred as a result of the January 1997 floods, $1,000,000, to be derived by transfer from amounts provided in this Act for ‘‘Federal Emergency Management Agency—Disaster Relief’’: *Provided*, That, notwithstanding any other provision of law, any county designated as a disaster area by the President shall be eligible to apply to the Secretary of Agriculture for assistance from such funds, which shall be immediately dispersed by the Secretary upon documented loss of farm labor housing units: *Provided further*, That such funds shall be used by the recipient counties to assist the purchase of farm labor housing, including (but not limited to) mobile homes, motor homes, and manufactured housing.

H.R. 1469

OFFERED BY: MR. GOODLING

AMENDMENT NO. 9: Page 51, after line 23, insert the following:

PROHIBITION OF FUNDS FOR NEW NATIONAL TESTING PROGRAM IN READING AND MATHEMATICS

SEC. 3003. None of the funds made available in this or any other Act for fiscal year 1997 or any prior fiscal year for the Fund for the Improvement of Education under the heading ‘‘DEPARTMENT OF EDUCATION—Education Research, Statistics, and Improvement’’ may be used to develop, plan, implement, or administer any national testing program in reading or mathematics.

H.R. 1469

OFFERED BY: MR. NEUMANN

AMENDMENT NO. 10: Page 28, line 5, after the dollar amount, insert the following: ''(reduced by $2,387,677,000)''.

Page 28, line 6, strike ''$2,387,677,000'' and all that follows through line 7.

Page 35, strike lines 8 through 25.

Page 51, after line 23, insert the following new section:

FURTHER RESCISSIONS IN NONDEFENSE ACCOUNTS

SEC. 3003. (a) RESCISSION OF FUNDS.—Of the aggregate amount of discretionary appropriations made available to Executive agencies in appropriation Acts for fiscal year 1997 (other than for the defense category), $3,600,000,000 is rescinded.

(b) ALLOCATION AND REPORT.—Within 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) allocate such rescission among the appropriate accounts in a manner that will achieve a total net reduction in outlays for fiscal years 1997 through 2002 resulting from such rescission of not less than $3,500,000,000; and

(2) submit to the Committees on Appropriations of the House of Representatives and the Senate a report setting forth such allocation.

(c) DEFINITIONS.—

(1) The terms ''discretionary appropriations'' and ''defense category'' have the respective meanings given such terms in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) The term ''Executive agency'' has the meaning given such term in section 105 of title 5, United States Code.

H.R. 1469

OFFERED BY: MR. NEUMANN

AMENDMENT NO. 11: Page 28, line 5, after the dollar amount, insert the following: ''(reduced by $2,387,677,000)''.

Page 28, line 6, strike ''$2,387,677,000'' and all that follows through line 7.

H.R. 1469

OFFERED BY: MR. NEUMANN

AMENDMENT NO. 12: Page 28, line 5, after the dollar amount, insert the following: ''(reduced by $1,700,000,000)''.

Page 28, line 6, after the dollar amount, insert the following: ''(reduced by $1,700,000,000)''.

H.R. 1469

OFFERED BY: MS. PELOSI

AMENDMENT NO. 13: Page 18, after line 4, insert the following new chapter:

CHAPTER 4A

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for ''Health Resources and Services'' for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act, $68,000,000.

Page 35, line 16, after the dollar amount, insert the following: ''(increased by $68,000,000)''.

Page 35, line 18, after the dollar amount, insert the following: ''(increased by $68,000,000)''.

H.R. 1469

OFFERED BY: MR. SANDERS

AMENDMENT NO. 14: Page 18, after line 4, insert the following new chapter:

CHAPTER 4A

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For an additional amount for ''National Institute of Environmental Health Sciences'', $10,000,000, for emergency research of and treatment for the synergistic impact of chemicals on the soldiers who served in the Persian Gulf and who are currently suffering form Gulf War Syndrome.

Page 37, line 11, after the dollar amount, insert the following: ''(reduced by $10,000,000)''.

H.R. 1469

OFFERED BY: MR. SCARBOROUGH

AMENDMENT NO. 15: Page 51, after line 23, insert the following new section:

ELIMINATION OF NONEMERGENCY DISCRETIONARY FUNDS

SEC. 3003. Each amount otherwise appropriated in this Act that is not designated in this Act by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, and is not required to be appropriated or otherwise made available by a provision of law, is hereby reduced to $0.

H.R. 1486

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 2: After chapter 6 of title V add the following (and redesignate the subsequent chapter and conform the table of contents accordingly):

CHAPTER 7—PHASE-OUT OF EXISTING PRIVATE SECTOR DEVELOPMENT ENTERPRISE FUNDS AND PROHIBITION ON NEW ENTERPRISE FUNDS AND ASSISTANCE FOR CERTAIN OTHER FUNDS

SEC. 571. PHASE-OUT OF EXISTING PRIVATE SECTOR DEVELOPMENT ENTERPRISE FUNDS.

(a) IN GENERAL.—Beginning 2 years after the date of the enactment of this Act, none of the funds appropriated or otherwise available to the United States Agency for International Development may be obligated or expended for assistance to the following enterprise funds (or any successor enterprise funds):

(1) The Albanian-American Enterprise Fund.

(2) The Baltic-American Enterprise Fund.

(3) The Bulgarian American Enterprise Fund.

(4) The Central Asian-American Enterprise Fund.

(5) The Czech and Slovak American Enterprise Fund.

(6) The Hungarian-American Enterprise Fund.

(7) The Polish-American Enterprise Fund.

(8) The Romanian American Enterprise Fund.

(9) The Southern Africa Regional Enterprise Fund.

(10) The U.S. Russia Investment Fund.

(11) The Western NIS Enterprise Fund.

(b) TRANSITION.—The President (acting through the Administrator of the United States Agency for International Development), in conjunction with the board of directors of each enterprise fund referred to in paragraphs (1) through (11) of subsection (a), shall, as soon as practicable after the date of the enactment of this Act, take the necessary steps to wind up the affairs of each such enterprise fund.

(e) REPEALS.—

(1) EXISTING ENTERPRISE FUNDS.—(A) The following provisions of law are hereby repealed:

(i) Subsection (c) of section 498B of the Foreign Assistance Act of 1961 (22 U.S.C. 2295b(c)).

(ii) Section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421).

(B) The repeals made by subparagraph (A) shall take effect 2 years after the date of the enactment of this Act.

(2) TRANS-CAUCASUS ENTERPRISE FUND.—Subsection (t) under the heading ''Assistance for the New Independent States of the Former Soviet Union'' of the Foreign Operation, Export Financing, and Related Programs Appropriations Act, 1996, is hereby repealed.

SEC. 572. PROHIBITION ON NEW PRIVATE SECTOR DEVELOPMENT ENTERPRISE FUNDS.

(a) IN GENERAL.—Beginning on March 12, 1998, the President may not provide for the establishment of, or the support for, any enterprise fund for the purposes of promoting private sector development, or promoting policies and practices conducive to private sector development, in any foreign country.

(b) DEFINITION.—For purposes of this section, the term ''enterprise fund'' means a private, nonprofit organization designated by the President in accordance with procedures applicable to the procedures used to designate enterprise funds under section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421).

SEC. 573. PROHIBITION ON ASSISTANCE FOR EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT FUNDS AND OTHER INTERNATIONAL FINANCIAL INSTITUTION FUNDS.

(a) PROHIBITION ON UNITED STATES ASSISTANCE.—Beginning 2 years after the date of the enactment of this Act, none of the funds appropriated or otherwise available to the United States Agency for International Development may be obligated or expended for assistance to any private sector development enterprise fund in which the European Bank for Reconstruction and Development (or any other international financial institution of which the United States is a member) participates, or which is financed by that Bank (or international financial institution), including the following enterprise funds (or any successor enterprise funds):

(1) The Russia Small Business Fund.

(2) The Regional Venture Fund for the Lower Volga Region.

(3) The Slovenia Development Capital Fund.

(b) OPPOSITION TO MULTILATERAL ASSISTANCE.—The President shall instruct the United States Executive Director of the European Bank for Reconstruction and Development and any other international financial institution of which the United States is a member to use the voice and vote of the United States to oppose the participation of that Bank or institution in, or financing by that Bank or institution of, any private sector development enterprise fund, including any enterprise fund referred to in paragraphs (1) through (3) of subsection (a).

H.R. 1486

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 3: At the end of chapter 1 of title VII (relating to special authorities and other provisions of foreign assistance authorizations) add the following (and conform the table of contents accordingly):

SEC. 706. LIMITATION ON PROCUREMENT OUTSIDE THE UNITED STATES.

Funds made available for assistance for fiscal years 1998 and 1999 under the Foreign Assistance Act of 1961, the Arms Export Control Act, or any other provision of law described in this division for which amounts are authorized to be appropriated for such

fiscal years, may be used for procurement outside the United States or less developed countries only if—

(1) such funds are used for the procurement of commodities or services, or defense articles, or defense services, produced in the country in which the assistance is to be provided, except that this paragraph only applies if procurement in that country would cost less than procurement in the United States or less developed countries;

(2) the provision of such assistance requires commodities or services, or defense articles or defense services, of a type that are not produced in, and available for purchase from, the United States, less developed countries, or the country in which the assistance is to be provided;

(3) the Congress has specifically authorized procurement outside the United States or less developed countries; or

(4) the President determines on a case-by-case basis that procurement outside the United States or less developed countries would result in the more efficient use of United States foreign assistance resources.

H.R. 1486

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 4: At the end of division A (relating to international affairs agency consolidation, foreign assistance reform, and foreign assistance authorizations) add the following (and conform the table of contents accordingly):

TITLE VIII—REDUCTION IN AUTHORIZATIONS

SEC. 801. REDUCTION IN AUTHORIZATIONS.

Notwithstanding the specific authorizations of appropriations in the preceding provisions of this division, each amount authorized to be appropriated for each of the fiscal years 1998 and 1999 under this division, or any amendment made by this division, is hereby reduced by 5 percent, except for the following:

(1) Chapter 1 of title IV (relating to narcotics control assistance).

(2) Chapter 2 of title IV (relating to nonproliferation, antiterrorism, demining, and related programs).

(3) Section 511(b) (relating to the Development Fund for Africa).

(4) Section 511(f) (relating to the African Development Foundation).

(5) Section 512 (relating to child survival activities).

(6) Chapter 5 of title V (relating to international disaster assistance).

H.R. 1486

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 5: At the end of division A (relating to international affairs agency consolidation, foreign assistance reform, and foreign assistance authorizations) add the following (and conform the table of contents accordingly):

TITLE VIII—REDUCTION IN AUTHORIZATIONS

SEC. 801. REDUCTION IN AUTHORIZATIONS.

Notwithstanding the specific authorizations of appropriations in the preceding provisions of this division, each amount authorized to be appropriated for each of the fiscal years 1998 and 1999 under this division, or any amendment made by this division, is hereby reduced by 10 percent, except for the following:

(1) Chapter 1 of title IV (relating to narcotics control assistance).

(2) Chapter 2 of title IV (relating to nonproliferation, antiterrorism, demining, and related programs).

(3) Section 511(b) (relating to the Development Fund for Africa).

(4) Section 511(f) (relating to the African Development Foundation).

(5) Section 512 (relating to child survival activities).

(6) Chapter 5 of title V (relating to international disaster assistance).

H.R. 1486

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 6: At the end of division A (relating to international affairs agency consolidation, foreign assistance reform, and foreign assistance authorizations) add the following (and conform the table of contents accordingly):

TITLE VIII—FUNDING LEVELS

SEC. 801. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1998 AND 1999 NOT TO EXCEED APPROPRIATIONS FOR FISCAL YEAR 1997.

Notwithstanding the specific authorizations of appropriations in the preceding provisions of this division, each amount authorized to be appropriated for each of the fiscal years 1998 and 1999 under this division, or any amendment made by this division, shall not exceed the amount appropriated for each such provision for fiscal year 1997.

H.R. 1486

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 7: At the end of title XVII (relating to foreign policy provisions) insert the following new section:

SEC. 1717. UNITED STATES POLICY CONCERNING IRANIAN RESISTANCE.

It is the sense of the Congress that the Secretary of State should recognize and engage in substantive dialogue with those groups inside and outside Iran that support the restoration of democratic government in Iran, including the National Council of Resistance of Iran.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, TUESDAY, MAY 13, 1997 *No. 62*

Senate

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, help us to pray what we mean and mean what we pray. May our prayers never be perfunctory. We ask You to fill this Chamber with Your holy presence and glory and acknowledge that all we do and say today, as well as our attitudes and our relationships, will be observed by You. We pray for Your inspiration for the quality of life of the Senate and realize that we are accountable to You for the depth of caring we express to one another beyond party loyalties. We intercede for our Nation and You give us vision that will require united, bipartisan support of legislation to solve problems and grasp Your larger plan. We ask for strength to work creatively and energetically and You impinge on our minds waiting for our invitation for You to empower us with Your spirit. Dear God, help us to pray with expectancy. In the name of our Lord who taught us to ask, seek, and knock in prayer, knowing that with You nothing is impossible. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ASHCROFT. I thank the Chair.

SCHEDULE

Mr. ASHCROFT. On behalf of the majority leader, I announce that this morning the Senate will turn to the consideration of S. 4, the Family Friendly Workplace Act. It is also hoped that the Senate will be able to return to S. 717, the IDEA, Individuals With Disabilities Education Act, legislation and complete action on that bill today. As always, all Members will be notified as to when to anticipate any rollcall votes on either of these two matters. In addition, the Senate may also consider any other legislative or executive items that can be cleared for action. I remind all Members that the Senate will be in recess from 12:30 to 2:15 for the weekly policy luncheons to meet.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, leadership time is reserved.

FAMILY FRIENDLY WORKPLACE ACT

The PRESIDING OFFICER. Under the previous order, the Senate now will proceed to the consideration of S. 4, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 4) to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Family Friendly Workplace Act''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to assist working people in the United States;

(2) to balance the demands of workplaces with the needs of families;

(3) to provide such assistance and balance such demands by allowing employers to offer compensatory time off, which employees may voluntarily elect to receive, and to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

(4) to give private sector employees the same benefits of compensatory time off, biweekly work schedules, and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

SEC. 3. WORKPLACE FLEXIBILITY OPTIONS.

[(a) COMPENSATORY TIME OFF.—

[(1) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

[''(r) COMPENSATORY TIME OFF FOR PRIVATE EMPLOYEES.—

[''(1) GENERAL RULE.—

[''(A) COMPENSATORY TIME OFF.—An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

[''(B) DEFINITION.—For purposes of this subsection, the term 'employee' does not include an employee of a public agency.

[''(2) CONDITIONS.—An employer may provide compensatory time off to employees under paragraph (1)(A) only pursuant to the following:

[''(A) Such time may be provided only in accordance with—

[''(i) applicable provisions of a collective bargaining agreement between the employer and the representative of the employees recognized as provided in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)); or

[''(ii) in the case of employees who are not represented by a labor organization recognized as provided in section 9(a) of the National Labor Relations Act, an agreement or understanding arrived at between the employer and employee before the performance

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of the work involved if such agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

[''(B) If such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

[''(C) If the employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (3).

[''(3) HOUR LIMIT.—

[''(A) MAXIMUM HOURS.—An employee may accrue not more than 240 hours of compensatory time off.

[''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employee's employer shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (6). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

[''(C) EXCESS OF 80 HOURS.—The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after giving the employee at least 30 days' notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

[''(D) POLICY.—An employer that has adopted a policy offering compensatory time off to employees may discontinue such policy upon giving employees 30 days' notice.

[''(E) WRITTEN REQUEST.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not yet been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (6).

[''(4) PROHIBITION OF COERCION.—

[''(A) IN GENERAL.—An employer that provides compensatory time off under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

[''(i) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours; or

[''(ii) requiring the employee to use such compensatory time off.

[''(B) DEFINITION.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(3)(B).''.

[(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

[(A) in subsection (b), by striking ''(b) Any employer'' and inserting ''(b) Except as provided in subsection (f), any employer''; and

[(B) by adding at the end the following:

[''(f)(1) An employer that violates section 7(r)(4) shall be liable to the employee affected in an amount equal to—

[''(A) the product of—

[''(i) the rate of compensation (determined in accordance with section 7(r)(6)(A)); and

[''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

[''(II) the number of such hours used by the employee; and

[''(B) as liquidated damages, the product of—

[''(i) such rate of compensation; and

[''(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

[''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

[(3) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by paragraph (1), is amended by adding at the end the following:

[''(5) TERMINATION OF EMPLOYMENT.—An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (6).

[''(6) RATE OF COMPENSATION FOR COMPENSATORY TIME OFF.—

[''(A) GENERAL RULE.—If compensation is to be paid to an employee for accrued compensatory time off, such compensation shall be paid at a rate of compensation not less than—

[''(i) the regular rate received by such employee when the compensatory time off was earned; or

[''(ii) the final regular rate received by such employee,

[whichever is higher.

[''(B) CONSIDERATION OF PAYMENT.—Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

[''(7) USE OF TIME.—An employee—

[''(A) who has accrued compensatory time off authorized to be provided under paragraph (1); and

[''(B) who has requested the use of such compensatory time off,

[shall be permitted by the employer of the employee to use such time within a reasonable period after making the request if the use of the compensatory time off does not unduly disrupt the operations of the employer.

[''(8) DEFINITIONS.—The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).''.

[(4) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations published at 29 C.F.R. 516.4, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that such notice reflects the amendments made to such Act by this subsection.

[(b) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.—

[(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following new section:

[''SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

[''(a) PURPOSES.—The purposes of this section are—

[''(1) to assist working people in the United States;

[''(2) to balance the demands of workplaces with the needs of families;

[''(3) to provide such assistance and balance such demands by allowing employers to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

[''(4) to give private sector employees the same benefits of biweekly work schedules and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

[''(b) BIWEEKLY WORK PROGRAMS.—

[''(1) IN GENERAL.—Notwithstanding any other provision of law, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

[''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

[''(B) in which more than 40 hours of the work requirement may occur in a week of the period.

[''(2) COMPUTATION OF OVERTIME.—In the case of an employee participating in such a biweekly work program, all hours worked in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by an employer, shall be overtime hours.

[''(3) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

[''(4) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

[''(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

[''(1) IN GENERAL.—Notwithstanding any other provision of law, an employer may establish flexible credit hour programs, under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accumulate flexible credit hours to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

[''(2) COMPUTATION OF OVERTIME.—In the case of an employee participating in such a flexible credit hour program, all hours worked in excess of 40 hours in a week that are requested in advance by an employer, other than flexible credit hours, shall be overtime hours.

[''(3) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

[''(4) COMPENSATION FOR FLEXIBLE CREDIT HOURS.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, an employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

[''(5) ACCUMULATION AND COMPENSATION.—

[''(A) ACCUMULATION OF FLEXIBLE CREDIT HOURS.—An employee who is participating in such a flexible credit hour program can accumulate not more than 50 flexible credit hours.

[''(B) COMPENSATION FOR FLEXIBLE CREDIT HOURS OF EMPLOYEES NO LONGER SUBJECT TO PROGRAM.—Any employee who was participating in such a flexible credit hour program and who is no longer subject to such a program shall be paid at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment, for not more than 50 flexible credit hours accumulated by such employee.

[''(C) COMPENSATION FOR ANNUALLY ACCUMULATED FLEXIBLE CREDIT HOURS.—

[''(i) IN GENERAL.—Not later than January 31 of each calendar year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accumulated as described in subparagraph (A) during the preceding calendar year that were not used prior to December 31 of the preceding calendar year at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment.

[''(ii) DIFFERENT 12-MONTH PERIOD.—An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

[''(d) PARTICIPATION.—

[''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

[''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists, an employee may only be required to participate in such a program in accordance with the agreement.

[''(3) PROHIBITION OF COERCION.—

[''(A) IN GENERAL.—An employer may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of such employee under this section to elect or not to elect to work a biweekly work schedule, to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours (including working flexible credit hours in lieu of overtime hours).

[''(B) DEFINITION.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

[''(e) APPLICATION OF PROGRAMS IN THE CASE OF COLLECTIVE BARGAINING AGREEMENTS.—

[''(1) APPLICABLE REQUIREMENTS.—In the case of employees in a unit represented by an exclusive representative, any biweekly work program or flexible credit hour program described in subsection (b) or (c), respectively, and the establishment and termination of any such program, shall be subject to the provisions of this section and the terms of a collective bargaining agreement between the employer and the exclusive representative.

[''(2) INCLUSION OF EMPLOYEES.—Employees within a unit represented by an exclusive representative shall not be included within any program under this section except to the extent expressly provided under a collective bargaining agreement between the employer and the exclusive representative.

[''(3) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefits program or plan that provides lesser or greater rights to employees than the benefits established under this section.

[''(f) DEFINITIONS.—As used in this section:

[''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

[''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the exclusive representative of employees in an appropriate unit to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

[''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

[''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

[''(5) EMPLOYEE.—The term 'employee' means an employee, as defined in section 3, except that the term shall not include an employee, as defined in section 6121(2) of title 5, United States Code.

[''(6) EMPLOYER.—The term 'employer' means an employer, as defined in section 3, except that the term shall not include any person acting in relation to an employee, as defined in section 6121(2) of title 5, United States Code.

[''(7) EXCLUSIVE REPRESENTATIVE.—The term 'exclusive representative' means any labor organization that—

[''(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to Federal law; or

[''(B) was recognized by an employer immediately before the date of enactment of this section as the exclusive representative of employees in an appropriate unit—

[''(i) on the basis of an election; or

[''(ii) on any basis other than an election;

[and continues to be so recognized.

[''(8) FLEXIBLE CREDIT HOURS.—The term 'flexible credit hours' means any hours, within a flexible credit hour program established under subsection (c), that are in excess of the basic work requirement of an employee and that, at the election of the employee, the employer and the employee jointly designate for the employee to work so as to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

[''(9) OVERTIME HOURS.—The term 'overtime hours'—

[''(A) when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

[''(B) when used with respect to flexible credit hour programs under subsection (c), means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, but does not include flexible credit hours.

[''(10) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

[(2) PROHIBITIONS.—

[(A) PURPOSES.—The purposes of this paragraph are to make violations of the biweekly work program and flexible credit hour program provisions by employers unlawful under the Fair Labor Standards Act of 1938, and to provide for appropriate remedies for such violations, including, as appropriate, fines, imprisonment, injunctive relief, and appropriate legal or equitable relief, including liquidated damages.

[(B) REMEDIES AND SANCTIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended by inserting before the semicolon the following: '', or to violate any of the provisions of section 13A''.

[(c) LIMITATIONS ON SALARY PRACTICES RELATING TO EXEMPT EMPLOYEES.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

[''(m)(1)(A) In the case of a determination of whether an employee is an exempt employee described in subsection (a)(1), the fact that the employee is subject to deductions in compensation for—

[''(i) absences of the employee from employment of less than a full workday; or

[''(ii) absences of the employee from employment of less than a full pay period,

[shall not be considered in making such determination.

[''(B) In the case of a determination described in subparagraph (A), an actual reduction in compensation of the employee may be considered in making the determination.

[''(C) For the purposes of this paragraph, the term 'actual reduction in compensation' does not include any reduction in accrued paid leave, or any other practice, that does not reduce the amount of compensation an employee receives for a pay period.

[''(2) The payment of overtime compensation or other additions to the compensation of an employee employed on a salary basis on hours worked shall not be considered in determining if the employee is an exempt employee described in subsection (a)(1).''.]

(a) COMPENSATORY TIME OFF.—

(1) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r) COMPENSATORY TIME OFF FOR PRIVATE EMPLOYEES.—

''(1) VOLUNTARY PARTICIPATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no employee may be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation. The acceptance of compensatory time off in lieu of monetary overtime compensation may not be a condition of employment.

''(B) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the representative of the employees that is recognized as provided for in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)), an employee may only be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation in accordance with the agreement.

''(2) GENERAL RULE.—

''(A) COMPENSATORY TIME OFF.—An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

''(B) DEFINITIONS.—In this subsection:

''(i) EMPLOYEE.—The term 'employee' does not include an employee of a public agency.

''(ii) EMPLOYER.—The term 'employer' does not include a public agency.

''(3) CONDITIONS.—An employer may provide compensatory time off to employees under paragraph (2)(A) only pursuant to the following:

''(A) The compensatory time off may be provided only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the representative of the employee that is recognized as provided for in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)); or

''(ii) in the case of an employee who is not represented by a labor organization that is recognized as provided for in section 9(a) of the National Labor Relations Act, an agreement or understanding arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) The compensatory time off may only be provided to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

''(C) An employee shall be eligible to accrue compensatory time off if such employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (4).

''(4) HOUR LIMIT.—

''(A) MAXIMUM HOURS.—An employee may accrue not more than 240 hours of compensatory time off.

''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employer of the employee shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (8). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(C) EXCESS OF 80 HOURS.—The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after providing the employee with at least 30 days' written notice. The compensation shall be provided at the rate prescribed by paragraph (8).

''(5) DISCONTINUANCE OF POLICY OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF POLICY.—An employer that has adopted a policy offering compensatory time off to employees may discontinue the policy for employees described in paragraph (3)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (3)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement or understanding described in paragraph (3)(A)(ii) at any time, by submitting a written notice of withdrawal to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (8).

''(6) ADDITIONAL REQUIREMENTS.—

''(A) PROHIBITION OF COERCION.—

''(i) IN GENERAL.—An employer that provides compensatory time off under paragraph (2) to an employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(I) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours;

''(II) interfering with the rights of the employee to use accrued compensatory time off in accordance with paragraph (9); or

''(III) requiring the employee to use the compensatory time off.

''(ii) DEFINITION.—In clause (i), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(2).

''(B) ELECTION OF OVERTIME COMPENSATION OR COMPENSATORY TIME.—An agreement or understanding that is entered into by an employee and employer under paragraph (3)(A)(ii) shall permit the employee to elect, for an applicable workweek—

''(i) the payment of monetary overtime compensation for the workweek; or

''(ii) the accrual of compensatory time off in lieu of the payment of monetary overtime compensation for the workweek.''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended by adding at the end the following:

''(f)(1) In addition to any amount that an employer is liable under subsection (b) for a violation of a provision of section 7, an employer that violates section 7(r)(6)(A) shall be liable to the employee affected in an amount equal to—

''(A) the product of—

''(i) the rate of compensation (determined in accordance with section 7(r)(8)(A)); and

''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

''(II) the number of such hours used by the employee; and

''(B) as liquidated damages, the product of—

''(i) such rate of compensation; and

''(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

(3) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by paragraph (1), is amended by adding at the end the following:

''(7) TERMINATION OF EMPLOYMENT.—An employee who has accrued compensatory time off authorized to be provided under paragraph (2) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (8).

''(8) RATE OF COMPENSATION FOR COMPENSATORY TIME OFF.—

''(A) GENERAL RULE.—If compensation is to be paid to an employee for accrued compensatory time off, the compensation shall be paid at a rate of compensation not less than—

''(i) the regular rate received by such employee when the compensatory time off was earned; or

''(ii) the final regular rate received by such employee,

whichever is higher.

''(B) CONSIDERATION OF PAYMENT.—Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

''(9) USE OF TIME.—An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (2); and

''(B) who has requested the use of the accrued compensatory time off,

shall be permitted by the employer of the employee to use the accrued compensatory time off within a reasonable period after making the request if the use of the accrued compensatory time off does not unduly disrupt the operations of the employer.

''(10) DEFINITIONS.—The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).''.

(4) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that the notice reflects the amendments made to the Act by this subsection.

(b) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period.

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT OR UNDERSTANDING.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the representative of the employees that is recognized as provided for in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)); or

''(ii) in the case of an employee who is not represented by a labor organization that is recognized as provided for in section 9(a) of the National Labor Relations Act, an agreement or understanding arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

''(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the

employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at the end of any 2–week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

''(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish flexible credit hour programs, under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accrue flexible credit hours to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(2) CONDITIONS.—An employer may carry out a flexible credit hour program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT OR UNDERSTANDING.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the representative of the employees that is recognized as provided for in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)); or

''(ii) in the case of an employee who is not represented by a labor organization that is recognized as provided for in section 9(a) of the National Labor Relations Act, an agreement or understanding arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) HOURS.—An agreement or understanding that is entered into under subparagraph (A) shall provide that, at the election of an employee, the employer and the employee will jointly designate, for an applicable workweek, flexible credit hours for the employee to work.

''(D) LIMIT.—An employee shall be eligible to accrue flexible credit hours if the employee has not accrued flexible credit hours in excess of the limit applicable to the employee prescribed by paragraph (3).

''(3) HOUR LIMIT.—

''(A) MAXIMUM HOURS.—An employee who is participating in such a flexible credit hour program may accrue not more than 50 flexible credit hours.

''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accrued during the preceding calendar year that were not used prior to December 31 of the preceding calendar year at a rate not less than the regular rate at which the employee is employed on the date the employee receives the compensation. An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(4) COMPENSATION FOR FLEXIBLE CREDIT HOURS.—Notwithstanding section 7, in the case of an employee participating in such a flexible credit hour program, the employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

''(5) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of 40 hours in a week that are requested in advance by the employer, other than flexible credit hours, shall be overtime hours.

''(6) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(7) USE OF TIME.—An employee—

''(A) who has accrued flexible credit hours; and

''(B) who has requested the use of the accrued flexible credit hours,

shall be permitted by the employer of the employee to use the accrued flexible credit hours within a reasonable period after making the request if the use of the accrued flexible credit hours does not unduly disrupt the operations of the employer.

''(8) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a flexible credit hour program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time, by submitting a written notice of withdrawal to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all flexible credit hours accrued that have not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due at a rate not less than the regular rate at which the employee is employed on the date the employee receives the compensation.

''(d) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(A) interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule;

''(B) interfering with the rights of the employee under this section to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours (including working flexible credit hours in lieu of overtime hours);

''(C) interfering with the rights of the employee under this section to use accrued flexible credit hours in accordance with subsection (c)(7); or

''(D) requiring the employee to use the flexible credit hours.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(e) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the representative of employees of the employer that is recognized as provided for in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

''(5) EMPLOYEE.—The term 'employee' does not include an employee of a public agency.

''(6) EMPLOYER.—The term 'employer' does not include a public agency.

''(7) FLEXIBLE CREDIT HOURS.—The term 'flexible credit hours' means any hours, within a flexible credit hour program established under subsection (c), that are in excess of the basic work requirement of an employee and that, at the election of the employee, the employer and the employee jointly designate for the employee to work so as to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(8) OVERTIME HOURS.—The term 'overtime hours'—

''(A) when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer; or

''(B) when used with respect to flexible credit hour programs under subsection (c), means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, but does not include flexible credit hours.

''(9) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(2) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by adding ''or'' after the semicolon; and

(C) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(c) LIMITATIONS ON SALARY PRACTICES RELATING TO EXEMPT EMPLOYEES.—

(1) IN GENERAL.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(m)(1)(A) In the case of a determination of whether an employee is an exempt employee described in subsection (a)(1), the fact that the employee is subject to deductions in pay for—

''(i) absences of the employee from employment of less than a full workday; or

''(ii) absences of the employee from employment of less than a full pay period,

shall not be considered in making such determination.

''(B) In the case of a determination described in subparagraph (A), an actual reduction in pay of the employee may be considered in making the determination for that employee.

''(C) For the purposes of this paragraph, the term 'actual reduction in pay' does not include

any reduction in accrued paid leave, or any other practice, that does not reduce the amount of pay an employee receives for a pay period.

''(2) The payment of overtime compensation or other additions to the compensation of an employee employed on a salary based on hours worked shall not be considered in determining if the employee is an exempt employee described in subsection (a)(1).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply to any civil action—

(A) that involves an issue with respect to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)); and

(B) in which a final judgment has not been made prior to such date.

The PRESIDING OFFICER. The Senator from Vermont.

MODIFICATION OF COMMITTEE AMENDMENT

Mr. JEFFORDS. On behalf of the committee, I modify the committee amendment as follows, and I send the modified committee amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Family Friendly Workplace Act''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to assist working people in the United States;

(2) to balance the demands of workplaces with the needs of families;

(3) to provide such assistance and balance such demands by allowing employers to offer compensatory time off, which employees may voluntarily elect to receive, and to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

(4) to give private sector employees the same benefits of compensatory time off, biweekly work schedules, and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

SEC. 3. WORKPLACE FLEXIBILITY OPTIONS.

(a) COMPENSATORY TIME OFF.—

(1) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r)(1)(A) Except as provided in subparagraph (B), no employee may be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation. The acceptance of compensatory time off in lieu of monetary overtime compensation may not be a condition of employment.

''(B) In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation in accordance with the agreement.

''(2)(A) An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

''(B) In this subsection:

''(i) The term 'employee' means an individual—

''(I) who is an employee (as defined in section 3);

''(II) who is not an employee of a public agency; and

''(III) to whom subsection (a) applies.

''(ii) The term 'employer' does not include a public agency.

''(3) An employer may provide compensatory time off to employees under paragraph (2)(A) only pursuant to the following:

''(A) The compensatory time off may be provided only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) The compensatory time off may only be provided to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

''(C) No employee may receive, or agree to receive, the compensatory time off unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(D) An employee shall be eligible to accrue compensatory time off if such employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (4).

''(4)(A) An employee may accrue not more than 240 hours of compensatory time off.

''(B) Not later than January 31 of each calendar year, the employer of the employee shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (8). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(C) The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after providing the employee with at least 30 days' written notice. The compensation shall be provided at the rate prescribed by paragraph (8).

''(5)(A) An employer that has adopted a policy offering compensatory time off to employees may discontinue the policy for employees described in paragraph (3)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (3)(A)(ii).

''(B) An employee may withdraw an agreement or understanding described in paragraph (3)(A)(ii) at any time, by submitting a written notice of withdrawal to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (8).

''(6)(A)(i) An employer that provides compensatory time off under paragraph (2) to an employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(I) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours;

''(II) interfering with the rights of the employee to use accrued compensatory time off in accordance with paragraph (9); or

''(III) requiring the employee to use the compensatory time off.

''(ii) In clause (i), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(2).

''(B) An agreement or understanding that is entered into by an employee and employer under paragraph (3)(A)(ii) shall permit the employee to elect, for an applicable workweek—

''(i) the payment of monetary overtime compensation for the workweek; or

''(ii) the accrual of compensatory time off in lieu of the payment of monetary overtime compensation for the workweek.''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended by adding at the end the following:

''(f)(1) In addition to any amount that an employer is liable under subsection (b) for a violation of a provision of section 7, an employer that violates section 7(r)(6)(A) shall be liable to the employee affected in an amount equal to—

''(A) the product of—

''(i) the rate of compensation (determined in accordance with section 7(r)(8)(A)); and

''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

''(II) the number of such hours used by the employee; and

''(B) as liquidated damages, the product of—

''(i) such rate of compensation; and

''(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

(3) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by paragraph (1), is amended by adding at the end the following:

''(7) An employee who has accrued compensatory time off authorized to be provided under paragraph (2) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (8).

''(8)(A) If compensation is to be paid to an employee for accrued compensatory time off, the compensation shall be paid at a rate of compensation not less than—

''(i) the regular rate received by such employee when the compensatory time off was earned; or

''(ii) the final regular rate received by such employee;

whichever is higher.

''(B) Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

''(9) An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (2); and

''(B) who has requested the use of the accrued compensatory time off;

shall be permitted by the employer of the employee to use the accrued compensatory time off within a reasonable period after making the request if the use of the accrued compensatory time off does not unduly disrupt the operations of the employer.

''(10) The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).''.

(4) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that the notice reflects the amendments made to the Act by this subsection.

(b) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period.

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT OR UNDERSTANDING.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

''(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at the end of any 2–week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

''(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish flexible credit hour programs, under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accrue flexible credit hours to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(2) CONDITIONS.—An employer may carry out a flexible credit hour program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT OR UNDERSTANDING.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) HOURS.—An agreement or understanding that is entered into under subparagraph (A) shall provide that, at the election of an employee, the employer and the employee will jointly designate, for an applicable workweek, flexible credit hours for the employee to work.

''(D) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(E) LIMIT.—An employee shall be eligible to accrue flexible credit hours if the employee has not accrued flexible credit hours in excess of the limit applicable to the employee prescribed by paragraph (3).

''(3) HOUR LIMIT.—

''(A) MAXIMUM HOURS.—An employee who is participating in such a flexible credit hour program may accrue not more than 50 flexible credit hours.

''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accrued during the preceding calendar year that were not used prior to December 31 of the preceding calendar year at a rate not less than the regular rate at which the employee is employed on the date the employee receives the compensation. An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(4) COMPENSATION FOR FLEXIBLE CREDIT HOURS.—Notwithstanding section 7, in the case of an employee participating in such a flexible credit hour program, the employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

''(5) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of 40 hours in a week that are requested in advance by the employer, other than flexible credit hours, shall be overtime hours.

''(6) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(7) USE OF TIME.—An employee—

''(A) who has accrued flexible credit hours; and

''(B) who has requested the use of the accrued flexible credit hours;

shall be permitted by the employer of the employee to use the accrued flexible credit hours within a reasonable period after making the request if the use of the accrued flexible credit hours does not unduly disrupt the operations of the employer.

''(8) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a flexible credit hour program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time, by submitting a written notice of withdrawal

to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all flexible credit hours accrued that have not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due at a rate not less than the regular rate at which the employee is employed on the date the employee receives the compensation.

''(9) PAYMENT ON TERMINATION OF EMPLOYMENT.—An employee who has accrued flexible credit hours under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused flexible credit hours at a rate not less than the final regular rate received by the employee.

''(d) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(A) interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule;

''(B) interfering with the rights of the employee under this section to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours (including working flexible credit hours in lieu of overtime hours);

''(C) interfering with the rights of the employee under this section to use accrued flexible credit hours in accordance with subsection (c)(7); or

''(D) requiring the employee to use the flexible credit hours.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(e) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

''(5) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(6) EMPLOYER.—The term 'employer' does not include a public agency.

''(7) FLEXIBLE CREDIT HOURS.—The term 'flexible credit hours' means any hours, within a flexible credit hour program established under subsection (c), that are in excess of the basic work requirement of an employee and that, at the election of the employee, the employer and the employee jointly designate for the employee to work so as to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(8) OVERTIME HOURS.—The term 'overtime hours'—

''(A) when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer; or

''(B) when used with respect to flexible credit hour programs under subsection (c), means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, but does not include flexible credit hours.

''(9) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(2) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by adding ''or'' after the semicolon; and

(C) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(3) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216), as amended in subsection (a)(2), is further amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(II) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(ii) in the second sentence, by striking ''wages or overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(iii) in the third sentence—

(I) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(II) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or'';

(B) in subsection (e)—

(i) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(ii) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''; and

(C) by adding at the end the following:

''(g)(1) In addition to any amount that an employer is liable under the second sentence of subsection (b) for a violation of a provision of section 13A, an employer that violates section 13A(d) shall be liable to the employee affected for an additional sum equal to that amount.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17.''.

(4) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that the notice reflects the amendments made to the Act by this subsection.

(c) LIMITATIONS ON SALARY PRACTICES RELATING TO EXEMPT EMPLOYEES.—

(1) IN GENERAL.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(m)(1)(A) In the case of a determination of whether an employee is an exempt employee described in paragraph (1) or (17) of subsection (a), the fact that the employee is subject to deductions in pay for—

''(i) absences of the employee from employment of less than a full workday; or

''(ii) absences of the employee from employment of less than a full workweek;

shall not be considered in making such determination.

''(B)(i) Except as provided in clause (ii), in the case of a determination described in subparagraph (A), an actual reduction in pay of the employee may be considered in making the determination for that employee.

''(ii) For the purposes of this subsection, an actual reduction in pay of an employee of a public agency shall not be considered in making a determination described in subparagraph (A) if such reduction is permissible under regulations prescribed by the Secretary under section 541.5d of title 29, Code of Federal Regulations (as in effect on August 19, 1992).

''(C) For the purposes of this paragraph, the term 'absences' includes absences as a result of a disciplinary suspension of an employee from employment.

''(D) For the purposes of this paragraph, the term 'actual reduction in pay' does not include any reduction in accrued paid leave, or any other practice, that does not reduce the amount of pay an employee receives for a pay period.

''(2) The payment of overtime compensation or other additions to the compensation of an employee employed on a salary based on hours worked shall not be considered in determining if the employee is an exempt employee described in paragraph (1) or (17) of subsection (a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply to any civil action—

(A) that involves an issue with respect to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)); and

(B) in which a final judgment has not been made prior to such date.

Mr. JEFFORDS. Mr. President, I would like to take this opportunity to once again thank everyone who has worked so hard to bring S. 4, the Family Friendly Workplace Act, to the floor. In particular, I would like to recognize the efforts and hard work of Senator MIKE DEWINE, the chairman of the Subcommittee on Employment and Training, and Senator JOHN ASHCROFT, the author and original sponsor of the bill. I am especially gratified to be working with Senators ASHCROFT and DEWINE on this important bill.

We are here today because we share the belief that S. 4 could make a world of difference in the lives of millions of Americans. During the markup of S. 4, a number of issues were brought to the committee's attention by my esteemed colleagues in the minority. At that

time, Senator DEWINE and I committed to look into several of the issues that were raised and to resolve them to the extent practicable. In the days following the markup, I have worked closely with Senator DEWINE and other Members to address these issues. I am extremely pleased with the results of this process. I believe that the changes proposed in the committee amendment will result in an even stronger piece of legislation. The Senator from Ohio will discuss the changes that have been made in the committee substitute to S. 4, the Family Friendly Workplace Act.

After spending a great deal of time working with the language of this bill and the committee amendment, I am more convinced than ever that S. 4 will assist American workers to balance work and family, and I urge all of my colleagues to join me in supporting the Family Friendly Workplace Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are on this legislation again today. I have a great appreciation for the leadership in attempting to try to juggle a variety of very important pieces of legislation. We have had the emergency appropriations which I think all of us would agree is the first order of business that we want to get passed. As to this legislation, we have been on again, off again. We are glad to debate these issues, but I understand some of the frustration of some of our colleagues during the course of this debate where the bill is on for an hour or two, and they try to begin to follow it, and then it is off again and we are uncertain when it will be be brought up again. That is something we have to deal with, but we will do the best that we can in attempting to deal with the on again, off again nature of this debate and respond to the questions which have been raised over this.

As we continue this debate, I want again to outline for the Members, who it is who supports this legislation because there have been a variety of different observations about the degree of support, who is supporting it, and who is opposing it. Those of us who have concerns about this legislation have enormous empathy and sympathy for families. That has been the focus over time of our Labor and Human Resources Committee, as well as others here. It is not just Members on this side of the aisle. It is many of our colleagues on the other side of the aisle who have made the cause of working families their cause.

But nonetheless, as we deal with this issue, it is important to know who is supporting it and who is against. I want to say again at the outset that we believe working families have been hard pressed over the last 25 years since about 1972 when their incomes effectively became stagnant. In the last 5 to 7 years we have seen that families are working longer and harder to make ends meet and are very hard pressed to rise every morning and deal with their family's issues as well. And so at the outset this legislation has some appeal, and if it was exactly as has been described it might have some merit. But the concern that many of us have is that it really gives the whip hand, so to speak, to the employers and it does appear to many of us that this is really a subterfuge to permit employers to avoid paying overtime.

We even had testimony from witnesses who were supporting the legislation who told the Labor and Human Resources Committee that that was the principal reason why they were supporting it. The National Federation of Independent Businesses told the Committee, ''Small businesses can't afford to pay their employees overtime. This is something they can offer in exchange that gives them a benefit.''

So we ought to understand right at the outset why many of those who do support comptime, also support the inclusion of Senator MURRAY's amendment. That amendment would have given absolute discretion to employees to take up to 24 hours a year to be able to attend a parents' meeting at school to consider the child's educational progress, or other such educational activities. Such an amendment was offered in the committee, but it was defeated along party lines.

That amendment was offered. It was supported by the President, and supported overwhelmingly by the majority of the American people. Under the amendment, the decision was the employee's. But the committee rejected that amendment along straight party lines. It was rejected. It was rejected. It was rejected.

We have also heard a great deal about the needs that families have to get some time off when they have a sick child. No employees in this country ought to have to make the choice between the job that they need and the child that they love. We passed the Family and Medical Leave Act to address those needs. That effort was achieved in a bipartisan way. But it was limited to those employers that had more than 50 employees. It has worked and worked well. And, under the Family and Medical Leave Act, if there is a medical emergency, if the need for treatment is not foreseeable, the employee has an absolute right to take time off. The employee has that right. If the medical condition is forseeable, then the employee has to make a reasonable effort to schedule the treatment at a time that does not unduly disrupt the operations of the employer. We offered an amendment in the committee to allow employees to use compensatory time under this same standard. That is, an employee has the right to use comptime at any time for reasons that would qualify under the Family and Medical Leave Act. But that amendment, too, was rejected along strict party lines.

The Family and Medical Leave Act applies to firms with 50 and more. Senator DODD offered an amendment in the committee to lower that threshold to 25 employees. That amendment, too, was rejected on party lines.

That is why the real issue regarding comptime is who is going to make the decision. If it is going to be the employee, put my name on it. Put my name on it. And I bet you would get the overwhelming majority of the Members on this side. If the employers are the ones who are going to make the decision—certainly you are not going to have my support, and you are going to be hard pressed to get the support of those who have been championing workers' rights.

That leads me to another point, and that is who are the supporters. Are these concerns just mine, or those of my good friend and colleague, Senator WELLSTONE, or Senator DODD, Senator HARKIN, Senator MOSELEY-BRAUN, and many others? No, that was a conclusion reached by the League of Women Voters, the National Women's Political Caucus, the National Women's Law Center, the Women's Legal Defense Fund.

It is very interesting why these organizations which have been the champion of women's issues and women's rights oppose this bill. It is because many of the people who are going for the overtime are women, single moms. You would think these organizations that have been fighting for women's rights and workers' rights would be out here supporting it, saying why are you battling it? Why are you battling it? These organizations that day in and day have been championing the economic rights of women universally reject the conclusions that have been drawn by some of our friends and colleagues on the other side of the aisle—that the employees are going to make all of these decisions, that it is going to benefit the single moms for employers to make the judgments about when they can be with their children.

That is not my reading of this bill, and many others agree. It is the conclusion of those organizations—not that we have to be on the side always of these organizations; they are not always correct. But it is interesting that every one of the organizations that have been championing women's economic rights and rights for children are all opposed to it. Why?

The Leadership Conference on Civil Rights:

> The legislation could reduce the income of many working families and make it more difficult for them to balance competing work and family responsibilities.

That theme runs all the way through. I will include it in the RECORD, Mr. President. The Leadership Conference on Civil Rights draws the same conclusion that I and many others have drawn, and that is after all is said and done it is the employer that is going to make the judgment about whether employees choose whether to earn comptime and when to use it if they've earned it. So these wonderful speeches

that I read over the course of the weekend in support of comptime, which were well stated and eloquently stated in many instances, beg the fundamental issue: that is, who is going to make the judgment about that sick child, about that sick relative, about the necessity for going to a teachers' conference or to a child's play. That has been the subject of debate here for more than 10 years. When we finally achieved it, in the Family and Medical Leave Act, it is the employee who has the right.

But now we have this different bill. As I mentioned, those who are opposing it not only include those women's organizations but also the Council on Senior Citizens, the NAACP, disability rights organizations, the National Council of Churches, a whole host—I will have the list of those included in the RECORD—let alone the unions, in spite of the fact that they are outside the coverage of this legislation. Unionized employees are outside. They are not affected by this legislation unless they choose to try to achieve comptime in the collective bargaining process. It is other workers, who are not unionized. But, nonetheless, these organizations understand what is happening out in the plants and factories. They supported the increase in minimum wage, as they support child care, as they supported family and medical leave and plant closing legislation—the whole range of issues that can offer some empowerment to workers dealing with a lot of challenges in the workplace. They have been, obviously, fighting for those rights, and they reached the same conclusion as well.

On the other side, those supporting this bill include the principal organizations that said ''thumbs down on the increase in the minimum wage,'' even though 65 percent of the people who were getting the minimum wage were women, a great percent of them with small children—thumbs down on that; thumbs down on family and medical leave, thumbs down on that. That is the decision that no worker ought to have to make, that decision between the child they love and the child they leave—thumbs down on that. And, as to plant closing legislation, which requires employers to give some notice to workers so they can go out and get other jobs if a business shuts down—thumbs down on that.

But these organizations that fought all of these worker protections just cannot wait to get this bill passed. They just cannot wait to get this passed. And one, I think, can reasonably assume that they are trying to get this passed for the very reason that was stated by the National Federation of Independent Businesses, because they do not want to pay overtime to workers.

I also want to describe the people who get overtime. Let us take a look at who are going to be the ones affected by this bill. To understand the real world impact of the bill, you have to look at the workers who are currently depending on overtime—that is what we are talking about, on overtime—to make ends meet. Mr. President, 44 percent of those who depend on overtime earn $16,000 a year or less—44 percent. More than 80 percent of them have annual earnings of less than $28,000 a year. These are hard-working Americans who are on the bottom steps of the economic ladder. They are the hard-working Americans who have a sense of pride, a sense of dignity—in so many instances they are the ones who clean these buildings at night, separated from their families. They are the teachers' aides, they are the health aides who work in nursing homes. They are men and women facing tough life decisions in tough economic times. Mr. President, 80 percent of them earn less than $28,000 a year. These are people who need every dollar they can earn just to make ends meet. They are men and women who are supporting families.

If this bill passes many of them will lose the overtime dollars they need so badly. Employers will give all the work to employees who agree to take the comptime. There will not be any overtime work for those who insist on being paid. Under the Ashcroft bill, discrimination in awarding overtime will be perfectly legal. Do we understand that? Discrimination against workers who refuse to sign on for the comptime provisions, the flexible credit hours or the so-called 80-hour biweekly schedule—discrimination against such workers will be perfectly legal. For example, let's take a worker in a plant who says, I am not going to go for that program. I want to play by the rules just as we have them now, a 40-hour week. I want to work overtime and get my time and a half. This bill gives the employer new powers—new powers. Time-and-a-half pay for overtime was the rule for all the workers in that place. Now, under this bill, it is different. Now the employer can go up and say, OK, so that is your position. The employer can then go to the next worker and say, What about you? Do you want to sign on for the flexible credit program that means you work overtime this week and get paid straight time without time and a half? Would you like to do that? Do you want that instead of time and a half?

Let's assume that this worker says, OK, I'll take that. I ought to be getting time and a half, which I would under the present law, but we have a new law. We have a new law called the comptime law, and it's supposedly family friendly. So if that is what I have to do, OK, I'll do it. I will work the extra time and just get paid straight time.

Now, what happens next? You come now to the third worker who says, All right, I will take the abolition of the 40-hour week. I'll work 60 or 70 hours one week and 10 in the next. So this worker is signed up.

Then, assume that the business gets a little overtime work. Do you think they are going to go back to the person who wants to get paid time and a half? Or do you think they will go to the person who takes the straight time, requiring no extra pay? Of course, the business will go to that person. That is what this bill is all about.

When we said in the Labor Committee, all right, if you are going to go this route, don't discriminate against those who participate, who want the existing law now—that amendment was rejected. Turned down, by a party line vote.

I wonder if, in the back of the minds of those who are the principal supporters, they know exactly what they are going to do. If they have this bill passed, they are not going to give any of the overtime to those people who insist on getting time and a half pay for overtime work. Instead, they'll assign the overtime work to workers who will accept flexible credit hours. Flexible credits are nothing more than saying I will do overtime but I will get paid straight time.

We must remember, again, who we are talking about. We are talking about the people who will get hurt the most. Mr. President, 56 percent of employees earning overtime have only a high school diploma or less. Do you know how hard it is to get ahead today, no matter how hard you work, without more education? We don't seem to dwell on that here on the floor of the Senate of the United States. The more you learn the more you earn. It is not always true, but it is by and large true. Yet these are the hard-working people who need the overtime pay to continue their education.

Millions of those affected by this bill rely on the overtime to make ends meet because they only earn the minimum wage. They are minimum wage earners—60 percent of them are women, a third of them are the sole breadwinner in their families. Mr. President, 2.3 million children rely on parents who earn the minimum wage, parents who hope their children do not get sick because they cannot afford a doctor. They are out there working, but they cannot afford a doctor for their children. If they make a little more money, it makes them ineligible for Medicaid, but they cannot afford the premiums for private health insurance. Children make up another group we are trying to provide some relief for, under the leadership of Senator HATCH, to try to make sure at least they are going to get some health care. I hope those on the other side of the aisle who are speaking so eloquently about the needs of these working families are going to be out there giving us a hand in trying to do something about their health care costs.

Interviews conducted by the Women's Legal Defense Fund demonstrate the sacrifice American women are making in support of corporate flexibility, such as a waitress who was involuntarily changed to a night shift despite the fact she had no child care for evening

hours. One working mother expressed the bitter frustration of many when she said, ''My life feels like I am wearing shoes that are two sizes too small.'' Millions of these low-wage workers are already working two jobs to make ends meets. They need to work every hour they can and be paid for it. Over 400,000 employees, well over half of them women, are working two jobs. They need the resources so badly they are working two jobs. But this bill is going to open up the opportunity for their exploitation.

I want to comment on what is, I believe, the fundamental issue. We now know who is really for this bill. We know that amendments to try to strengthen the bill against the possibility of exploitation were defeated in committee. I also mentioned others we offered to try to deal with other very important features of the bill.

But I also want to offer a general response to some of the points that were brought up by my friend and colleague from Missouri last Friday. After I discussed the Family and Medical Leave Act he said: I would like to ask the Senator from Massachusetts whether he believes that this abolishes the Family and Medical Leave Act.

Let me tell my colleague why I raised the Family and Medical Leave Act. I raised it on the floor because the Republicans rejected the two amendments to expand the Family and Medical Leave Act in committee. The Senator from Missouri said Friday that the Family and Medical Leave Act and S. 4 are compatible. Obviously, his Republican colleagues in the committee did not think so. On a straight party line vote, as I mentioned earlier, Senator DODD's amendment to extend the availability of family and medical leave to workers in businesses with between 25 and 50 employees was rejected. On a similar vote they rejected Senator MURRAY's amendment to allow 24 hours of leave a year to attend parent-teacher meetings.

This debate is not about the changing demographics of the work force. We are all aware that in more than 60 percent of two-parent families with young children, both parents are now working outside the home. Working parents need more opportunity to take time off from their work to be with their children. The debate is over how best to provide that time.

Those of us who oppose S. 4 believe that it does a very poor job of providing employees with time off at those times when they need it most. S. 4 is designed to meet employer needs, not employee needs. The legislation purports to let employees make the choice between overtime pay and comptime, but it does not contain the protections necessary to ensure that employees are free to choose without fear of reprisal. It is the employer, not the employee, who decides what forms of comptime and flextime will be available at the workplace. There is no freedom of choice for workers.

This is really a Hobson's choice. It says: We are going to change today's existing protections for what is really a pig in a poke. So if the employee signs on, he or she is going to have a series of choices. But they are all going to be bad choices. They are all going to be bad choices, that are not in the employee's interest. Under this bill, employees will indeed have some choices, but they are all going to be the bad choices. Let me explain.

The worker goes to work in the plant. The employer comes up and says, This is a voluntary program. You can either play by the rules as we do at the present time or, as I mentioned, you can sign on for the comptime provisions. Or you can do the flexible credit hours, and we can abolish the 40-hour week. Which one of these, or all of them, do you want? You would like all of them? If the employee agrees, that agreement does not even have to be a written statement. It can be an oral statement. It has to be written if employees are trying to get out of one of these programs, but it can be oral for employees to get in. Very interesting; I wonder why. Why do they not treat the employer and employee the same way? If employees believe somehow they are in the program, they have to write a written statement to get out. But an oral statement is enough to get you in.

Again, that doesn't apply to the Federal employees, which we hear so much about; again, that is a decision made purely by the employee.

Imagine a situation where employees say, Look, I really need that money. I like time and a half. That's what I get now. But I need this money so badly in order to provide for my kids, getting their teeth fixed, I will work the extra hours just for straight time.

The employer will respond, Fine. You are on. You are on. Look, it's voluntary. You are on. You wanted to do that, you are stating that, OK, you are on.

Now imagine that the employer needs a little overtime work. Do you think he is going back to the person who wants time and a half? Of course not. Of course not. Of course not.

They are going to go to this part that says, Look, you can work me 60 hours a week. So that employer is going to say, I'm going to take those that go for the flex credit and those that will go for the 60- or 70-hour week, then I don't have to pay the overtime.

Mr. President, that is what this bill provides. We can hear this is voluntary. Sure, it is voluntary for this person to get in or out. It is voluntary for that person that effectively is going to have to need those resources so much that they will sign on for a lesser compensation, but it is not voluntary for the employer. He or she can make that judgment as to which one of those they will use and do it in a way which effectively undermines these provisions.

I want to just mention what the current situation is, and then I will come back to the analysis.

Currently, if employers generally want to provide family friendly arrangements, they can do so under the current law. The key is the 40-hour week. Normally, employees work five 8-hour days a week, but more flexible arrangements are possible. Employers can schedule workers for four 10-hour days a week, with the fifth day off, paid at the regular rate for each hour. No overtime is required. They have that flexibility today.

We hear, What if you want Friday off? Well, you can have Friday off on this if the employers want to do that to benefit their employees. We heard so much the last time that employers care so much about the employees that they are really going to take care of them. They can do that today under the existing law. They can give them a half day off on Fridays. A number of companies do that, but they do not have it mandated. And no overtime is required. Or they can arrange a work schedule for four 9-hour days plus a 4-hour day on the fifth day, again without paying a dime of overtime.

Under current law, employers can also arrange a work schedule for four 9-hour days plus 4 hours on the fifth day without paying the overtime.

Under the current law, some employees can even vary their hours enough to have a 3-day weekend every other week. They can offer genuine flextime. This allows employers to schedule an 8-hour day around core hours of 10 to 3 and let employees decide whether they want to work 7 a.m. to 3 p.m. or 10 a.m. to 6 p.m. This, too, costs employers not a penny more.

But only a tiny fraction of the employers use these or the many other flexible arrangements available under current law. The Bureau of Labor Statistics found in 1991, only 10 percent of hourly employees use the flexible schedules. The current law offers a host of family friendly flexible schedules today, yet virtually few employers provide them.

This bill, Mr. President, has to lead us to a different conclusion. If they have the flexibility, they can do it, and they are not doing it, I think it is fair to reach a different conclusion, which is cut workers wages, and employer groups unanimously support it. That is the record. All the employer groups unanimously support it. Obviously, it is not just small businesses which wish to cut the pay and substitute some less expensive benefit instead.

As I was just mentioning about the comments that were made last week, we have the situation where the employer has those choices over those employees. Those of us who oppose S. 4 believe it does a very poor job of providing employees the time off at the times they need it.

S. 4 is designed to meet the employer needs, not the employee needs. I mentioned last week about the change in the decisionmaking from the employee to the employer that is made with Federal workers. We heard so much about

the Federal employees: We are just doing here for the private sector what the Government has already done for Government employees. We heard that for a long time, until someone picked up the book and said, ''In the Federal Government, the employees make the decision.'' But not here, Mr. President.

The way this is designed, which I went into in some detail last Friday, demonstrates that the employer will make the ultimate decision about whether he or she has been given reasonable time and whether it will unduly disrupt. Even if the employer is arbitrary in basically denying this kind of reasonable request, do you think that there is any enforcement mechanism there? Do you think there are any penalties in this area there? Absolutely none. What do you think that says to the employers? That gives them the whole enchilada. They make the decision on whether the request is reasonable, they make the decision whether it will unduly disrupt, and if they make it wrong, there is nothing that will happen to them. Come on, Mr. President, that gives the authority and the power to those employers.

An employer can lawfully deny all overtime work to those employees who want to be paid and give overtime exclusively to workers who will accept the comptime in lieu of pay. There is no freedom of choice for workers.

A working mother may want a particular day off so that she can accompany her child to a school event or a doctor's appointment. Nothing in this legislation requires the employer to give her the day off she requests. The employer decides when it is convenient for her to use her accrued comptime. There is no freedom of choice for workers.

The employee witnesses cited in the Republican majority report, Christine Korzendorfer and Sandie Moneypenny, emphasized the importance of employee choice in their testimony. Ms. Korzendorfer, who the Senator from Missouri focused on in his remarks, told the Employment and Training Subcommittee: ''What makes this idea appealing is that I would be able to choose which option best suits my situation.'' But those who brought Ms. Korzendorfer to testify did not tell her who controlled that decision. Under S. 4, it is the employer alone who determines what flexibility is available in her schedule.

Ms. Moneypenny testified, ''If I could bank my overtime, I wouldn't have to worry about missing work if my child gets sick on a Monday or Tuesday.'' The problem is that the Republican bill doesn't give her that opportunity. Her employer has no obligation to let her use the accrued comptime on the days her child needs to see a doctor. There is no provision, there is no guarantee in here, absolutely none.

The Senator from Missouri went to great lengths to rebut my contention that on crucial issues, S. 4 gives the choice to the employer, not the employee. His defense of the legislation is that the employee can choose not to participate in the first place and can choose to withdraw from the program later. He refers to this as ''the choice to change his or her mind'' if the program is not working fairly. Contrary to the Senator from Missouri, I do not consider that to be much of a choice at all.

If they are out, if they say, ''I am not for this, I have worked these flex credit hours until I am blue in the face and I'm not getting the overtime, I want out of it,'' does anybody think that that individual is ever, ever going to be able to get overtime as one who is not participating in this?

This is so far beyond the possible understanding about what is happening in the work force, where last year, 170,000 cases came before the NLRB and over $100 million was returned to workers because of the failure to pay overtime. That is what is happening.

And where is it happening? Among these various workers. That is today. That is happening just as we are here. The idea that this is all being done in this wonderful atmosphere of consideration of the bill defies what is happening in the work force of America among this economic group: over 80 percent, $28,000. We know where they are working. We know about the failure to give them overtime. We know what those working conditions are. How many studies, how many reviews, how many inspections have to be done? We know what will happen to that employee when that employee says, ''Well, I'm out of it now, I want to get out of it.''

If we are truly concerned about the employee's need for families, we should design a program that really works. I do not consider it to be an appropriate response to say, in essence, if the employees don't like what we give them, they can reject it and get no time off at all. I think we have a greater obligation to draft legislation which genuinely addresses the real needs of workers.

The Senator from Missouri denied this bill will result in a pay cut. As presented, S. 4 would allow an employer to deny overtime work from employees who insisted on receiving overtime pay. All the overtime work could go to the employees who agreed to take comptime. Those who wanted overtime pay would no longer receive any of the extra work. Their paychecks would be reduced, and, in plain English, that is a cut in pay.

Furthermore, under the biweekly work schedule and the flexible credit hour provisions, employees who work more than 40 hours a week will no longer receive time and a half in their wages or time off. That is, Mr. President, if the person said, ''Look, I really need to get that time for my child on Monday, give me the time off my comptime,'' they say, ''OK, you get it,'' but the interesting thing is, the words that are left out are when they come back to work, they can be forced to work on Friday because it does not use the words ''hours paid,'' to equivalency in hours paid which gives the protection.

So mom or dad gets the child on Monday but loses them on Saturday. These are the kinds of things in this bill. Do you think we got support? We tried to make those adjustments in the legislation. No, no.

As the Senator from Missouri directly noted, that loss of pay creates undue stress. We should not permit it to happen, but it will happen if S. 4 is enacted.

All of the problems with S. 4 I have described this morning —the failure to ensure employees the right to use comptime when they choose; the failure to prevent employers from discriminating in allocating overtime work; the failure to preserve the principle of the 40-hour workweek; and the failure to treat comptime hours used as hours worked could easily be corrected. In the Labor Committee, the Democratic members offered amendments to correct these flaws. Each was rejected. Each was rejected. Each one of those would have given greater power to the employees. All of them were turned down.

The refusal of the Republican majority to make these changes —to present legislation that would truly empower workers to make real choices—speaks for itself. The real intent of S. 4 is to create choices for employers, not employees. We can do better. Let's enact a bill that gives those choices to working men and women so they are free to do what is best for their families.

Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, last Friday, we had the privilege of beginning our discussion of the Family Friendly Workplace Act. During that debate, the Senator from Massachusetts asked an important question of the sponsors of S. 4. He put the question this way: Who's side are you on?

I want to answer that question very clearly: We are on the side of the workers of this great nation. We are on the side of giving American workers the capacity to be better fathers and mothers, sons and daughters. We are on the side of providing a framework so workers can adequately balance the competing demands of work and family. We are on the side of giving the 59.2 million private sector hourly workers the ability to work flexible work schedules that already are enjoyed by the 66 million American workers who enjoy flexible working arrangements.

Who's for flextime? I think it is an important question that has been asked. A Penn and Schoen survey reports that 75 percent of the public supports the choice of comptime; 64 percent of the public prefers time off to more pay, given the choice. They want to have the choice to take time off instead of receiving more pay.

Federal workers now have the same flextime arrangements that are offered in this legislation; 74 percent say that it boosts their morale; 72 percent have more time with their families.

It is time to provide this same benefit we provide in Government to people in the private sector. Working Woman and Working Mother magazines both endorse this particular proposal of flextime, because they believe that it is essential that we have more capacity to accommodate the competing demands of flexible working arrangements and our families. We are on the side of working women who have said that flexibility is what they need to meet the competing demands of work and family. We are for women who, in the Department of Labor's working women count report to the President stated that, ''The No. 1 issue women want to bring to the attention of the President is the difficulty of balancing work and family obligations.''

As I mentioned, Working Mother magazine says it supports this legislation. Working Woman magazine also supports this legislation—in its approval of this bill—the editors said that we should give women what they want and not what Congress thinks they need.

Why should we want to give flexible work arrangements to these workers? What does it mean for their families? What does it mean for their lives? The workers enjoying the benefits can tell you. The executives in the boardroom can tell you how important it is to be able to accommodate their family needs through flexible scheduling. The salaried workers of America—supervisors, managers, stockbrokers, bankers, and lawyers can tell you how flexible working arrangements give them opportunities to leave work early when needed to watch their child play in a ball game or go talk to a parent-teacher conference, or take care of personal business that cannot be done on the weekend.

Of course, Federal workers, and many State and local government workers, who have comptime can tell you what the benefit of being able to go home to be with their sick child instead of worrying about that child. Congress recognized the benefit of flexible work arrangements and passed the Federal Employees Flexible and Compressed Work Schedules Act almost 20 years ago. This act allowed Federal Government employees to enjoy flexible work schedules, which still are illegal for the rest of America's private sector hourly workers. That disparity between what we have provided as an opportunity for Federal workers and which we make illegal for people in the private sector is a disparity which the people of America are uncomfortable with, and they expect us to change.

The Federal Employees Flexible and Compressed Work Schedules Act allows hourly workers to work an extra hour one week in order to work 1 hour less the following week, something that is illegal now. It allows Federal Government employees paid by the hour to work on biweekly schedules, at their option. This allows a worker to work 5 days one week, 4 days the next, and have every other Friday off.

When surveyed about the program among the workers who have it in the Federal Government, it is interesting that Federal workers, on a 10-to-1 basis—actually, better than 10-to-1 basis—stated they like the program and they wanted it to continue. No wonder. Today, almost 20 years after giving this benefit to workers in the Federal Government, it is still illegal for private sector employers to cooperate with their employees in the same respect.

As far back as 1945, the Congress of the United States recognized that some times, when employees work overtime, they would rather have some extra time off rather than the money. Congress recognized that no matter how much money you get for overtime, you cannot replace the time you need with your family, so they amended the Federal Employees Pay Act to allow Federal Government employees the choice between being compensated for overtime work and being able to take time off with pay. In 1985, Congress gave the same choice to State and local government employees, in terms of comptime opportunities. These workers can take time off with pay at a later date, instead of being paid cash for time-and-a-half overtime.

Congress acknowledged that sometimes time is more valuable than money and that Congress is not in a place to make that decision for every worker. However, right now Congress is making that decision for private sector hourly workers. Congress is making that decision because there is no option, under the law, for employees to choose to take time off later over monetary compensation.

Now, the squeeze on people for time has never been more dramatic than it is at this time. Yet some Members of Congress continue to fight giving the same option of flexible scheduling to private sector employees that we have given to Federal government employees. They fight giving compensatory time off options to private sector workers even though they supported such measures for State and local government employees just 12 short years ago.

The Family Friendly Workplace Act would give all hourly workers this same opportunity to make such choices.

Now, President Clinton recognized the benefits of flexible work schedules himself when he directed the use of flexible work arrangements for executive branch employees. On July 11, 1994, he said:

> Broad use of flexible working arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

It sounds like the President was endorsing the concept. I agree with his statement. I urge him to be on the side of the rest of the workers, not just the Government workers of America. I urge him to join us in saying that all hourly paid workers in America should have this opportunity to cooperate with their employers to work for comptime off instead of paid overtime when they prefer comptime off.

It is important to note that this legislation would impose taking time off on no one, and anyone, even if they made a choice to take time off, could later convert that to paid time merely by saying so. The bill provides that second choice.

I think it is important for us to say whose side are we on. I think we are on the side of the private sector, hourly workers in this country. Everyone agrees that flexible work arrangements have been good for Federal employees, for salaried workers, for State and local workers in terms of comptime provisions. Every study that has ever been done on the subject concludes that these arrangements are beneficial to workers.

So why is that group of hard-working Americans, the laborers of this Nation who work on an hourly basis—the store clerks, the mechanics, the factory workers, the clerical workers, baggage handlers, gas station attendants—why are they denied the opportunities for this benefit? Could it be that the Congress has the arrogance to decide that no worker could make such a choice for himself, that these workers are incapable?

I believe that is outrageous. We should no longer say, ''You cannot make this decision, we must make it for you.'' We should say to these workers, you have the same capacity and right to cooperate with your employer to make decisions about time off and about flexible working arrangements and about scheduling as do the Federal workers and workers at State and local governmental entities.

That is whose side we are on. Everyone in the culture, other than hourly workers, now has a real shot at flexible working arrangements and compensatory time. The boardroom has it. When the boss goes to play golf on Friday afternoons, he knows of the value of flextime. It is high time, if the boss is capable of doing that, he should at least be able to cooperate with employees who need to spend time with their family to provide such opportunities for hourly workers, as well.

So I ask the opponents of this legislation, whose side are you on? Are you on the side of working women who sit at their desk worrying about a sick child because they cannot afford to take time off from work without pay, while their salaried coworkers leave for their sons' soccer games? Are you on the side of working men who pack their lunch every day and go to work only to go

home to look at pictures of their child's award assembly, pictures which show that the business executives were proudly at the side of their children while his child accepts the award?

Are you on the side of Christine Kordendorfer who wanted the option of occasionally taking her overtime compensation in the form of time off rather than pay to care for her growing family and take care of her health in the last stages of her pregnancy? Are you on the side of Arlyce Robinson who came in to testify that she wants to take some time off as a result of flextime, so she can participate in her four grandchildren's extracurricular activities? Or are you on the side of the special interests? Are you on the side of the organizations designed to represent the interests of America's workers, who just this Sunday began running ads opposed to this legislation?

Let me just say I was stunned when those organizations, which purport to be helping American workers, began running television ads against this legislation. The television ads were replete with misrepresentation. Here is the text of the ad: ''Big business is moving to gut a law protecting our right to overtime pay. If they win, employers could pay workers with time off instead of money.'' That is simply false, that the employer would have a unilateral right. As a matter of fact, it takes a request by the employee in order for that to happen. They say that the choice will be up to employers. They say that there are no real safeguards to keep employers from pressuring workers to accept time off or to telling them when to take the time off.

The fact of the matter is the bill itself contains safeguards that are substantial. The bill provides that there can be no coercion, either direct coercion or indirect coercion. I will read from the bill, line 14 on page 15: ''An employer that provides compensatory time off under paragraph 2 to an employee shall not directly or indirectly intimidate, threaten, coerce or attempt to intimidate, threaten or coerce any employee for the purpose of,'' and then it goes on, ''including interfering with the rights of the employee to use accrued compensatory time off in accordance with this law, or requiring, threatening or coercing them in terms of requiring the employee to use compensatory time off.'' When you go to the definition provided in the law about intimidation and coercion, either direct or indirect, you find out that relates to conferring a benefit or denying a benefit.

Now the Senator from Massachusetts has repeatedly said employers would be free to offer benefits like overtime work and extra pay, which he categorizes as a benefit to those who would choose one form or another of compensation. The bill itself unmistakably challenges the charges levied in the AFL–CIO spots against this matter.

This ad says, ''You could work up to 40 additional hours in a week before qualifying for overtime.'' Up to 40 additional hours in a week before qualifying for overtime, suggesting that an employer could make an employee work an 80-hour week. That is a total falsehood. To do that, to say that, knowing this bill does not provide that, is to lie.

It is important for us to know that the real provisions of this bill outlaw specifically direct and indirect coercion. They outlaw intimidation. They outlaw the promise of a benefit, or the conference of a benefit to an individual to shape or to otherwise distort the decisionmaking that is voluntary, and it is supposed to be voluntary and guaranteed to be voluntary under this bill.

I think it is shameful that the AFL–CIO would seek to impair the ability of hourly workers in this country to have the benefit. It is the same kind of flexibility that workers at the salaried level, at the boardroom, at the management level, at the supervisory level, have long had. It is sad—twisted, that these ads began running on Mother's Day. Frankly, the best Mother's Day present we could have given to the United States of America would have been flexible working arrangements that would have made possible mothers spending more time with their families, fathers spending more time with their families, fathers and mothers spending more time with each other and their children. On the day set aside to recognize the valuable contributions that mothers make in our society, the labor lobby was beginning a campaign opposing this bill rather than embracing a change that would enhance the lives of mothers across this great land.

Rather than supporting public policy to make workers' lives easier, the labor lobby found out that the Members on the other side of the aisle recognize how important it is to give American workers these options. The labor lobby realized that Congress is going to work together to ensure America's families a brighter future, so the labor lobby interests in Washington took money, paid out of the pockets of hard-working Americans—it is from the very workers who would benefit from these scheduling options—yet they are spending the worker's money on ads opposing this legislation. These ads are a lie. These ads were strategically targeted to those Members on the other side of the aisle who have expressed an interest in working with us on this issue.

When I first introduced this legislation back in 1995, the labor lobby ran similar ads in my State. However, the ads backfired as their lies were exposed. As concerned constituents called my office, they found out the truth about the legislation. Many of them told me not to listen to the voice of the opposition coming from the labor lobby. They told me that, as workers, they were interested in this kind of flexibility. They told me that these scheduling options would enhance their lives. They recognized the fact that the labor lobby should be leading this fight, leading the charge to help get workers more scheduling options. In fact, these constituents resented the fact that the labor lobby in Washington had abandoned their traditional promoting of workers' interests.

Knowing that some of this body's strongest opponents of this bill supported these flexible scheduling options for Federal Government workers makes me wonder whose side they are on. Knowing that just 12 years ago these same opponents not only supported comptime options for State and local government employees, but cosponsored the legislation, I wonder whose drum they are marching to now. Is it the drumbeat of the American worker who needs to have the opportunity for flexible scheduling? Or is it the cadence that is being called by the labor union leaders in Washington? I wonder whose side they are on when there are much greater protections in this bill than the bills they have supported in the past.

This bill is replete with protections for workers that are not included in the bill that is providing the same framework of options for Federal employees. Under the legislation giving State and local government workers comptime options, cosponsored by the opponents, comptime can be made a condition of employment. It can't be a condition of employment here. There is no protection of a worker against coercion. Under this legislation coercion or even attempted coercion would be a violation of the law. We have rules against coercion and intimidation. State and local government agencies can force the employee to use their comptime when it is convenient for the agency, even though that practice has been successfully challenged in some courts. That is the provision they allowed in the bill they passed for State and local governments. We have protections against that happening in this bill.

Last but not least, in the bill that they sponsored and passed for State and local government authorities, there were absolutely no cash-out provisions for the workers. The bill that is before us allows a worker who has said, ''I will take my time in comptime,'' any time prior to taking the time off with pay, later on, can say, ''No, I would like the money, the time and a half overtime. I will be working to gain additional hours later.'' So the worker has a choice in the first instance to say, yes, I would like to have some comptime or not and work time and a half—that is the worker's choice. It can't be imposed on him, by the terms of the legislation, with a stiff penalty.

A second choice is an option of the worker. At any time prior to taking the time off, the worker can say, ''I changed my mind. I would like to have the money.'' That is not an option under legislation cosponsored by opponents of this bill. That is not a protection that was included by those who sponsored the measure for State and

local governments. They didn't have that protection there. We have it here. Further, there is another protection. At the end of every year, these hours have to be cashed out if they are not taken in this bill. Were those protections in the items sponsored by those who oppose this bill for State and local workers? Not on your life. They are demanding a much higher standard here because they are marching to the beat of a different drum.

I submit to you that it is important to know whose side we are on in this legislation. I say it is time that we be on the side of American workers and their families. For a long enough time we have been on the side of those individuals whose effort is made in Government. For the last 20 years, we have had these kinds of flexible arrangements. Federal Government workers enjoy using them at a 10-to-1 rate. They say these schedules improve their morale and give workers more time to spend with their families. Last week, they interviewed working mothers in the United States of America, and 81 percent of them said flexible working arrangements would be very important. Yes, that is whose side are we on?

Now, those who oppose this call this a ''paycheck reduction act.'' I don't know how they can call this the paycheck reduction act with a straight face, because there answer it to create more unpaid leave. They say we should not do this, we should expand family and medical leave. Family and medical leave is nothing more than the right to take time off without pay. Here we have a flexible working arrangement proposal which would give people the right to take time off with pay. I think the American people want to have time off with pay. So who's side are we on?

Let's go to the statistics from the Family and Medical Leave Commission report. The Family and Medical Leave Commission report says what happens when people take time off without pay—which is really the way you reduce your paycheck, by taking time off without pay. Here is what happens: Twenty-eight percent of all the people who took time off had to make ends meet by borrowing money. This is from the report of the Commission on Family and Medical Leave. Senator DODD chaired this Commission. The Commission reported that 28.1 percent had to borrow money; 10.4 percent of the people who took time off under family and medical leave went on welfare in order to accommodate the reduction in pay; 41.9 percent said they had to put off paying bills. The opponents of this legislation are just offering more additional leave without pay, so that another 40, 41, or 42 percent of the people have to go without paying their bills, or another 10.5 percent will have to go on welfare, or close to 30 percent will have to go out and borrow money.

Whose side are we on? How can you call this the paycheck reduction act, which would provide individuals the opportunity to take time off without taking the pay cut? They could use comptime or take time off by using flextime. It just is beyond me to think that we would reject this opportunity for Americans to spend time with their families. It is beyond me that we would reject this opportunity to give Americans time to accommodate their needs outside the workplace by taking comptime off or using flextime and still get paid for it only to have the other side allege that this is a paycheck reduction act. I cannot believe that after calling this bill the paycheck reduction act, that they can claim the real solution to this problem is to put more people in the position where, according to the Family and Medical Leave Commission, 28.1 percent of them had to borrow money, 10.4 percent had to go on welfare, and 41.9 percent had to say to creditors, ''I am not going to be able to pay you.'' This isn't what Americans want. No wonder 75 out of 100 people in this culture say we really want more flexible working arrangements.

Now, I just add that nothing in this measure impairs the ability of anyone to take time off under family and medical leave. That time is still available. This doesn't abolish family and medical leave. Every single hour of family and medical leave that exists—if a person prefers to take time off with a pay cut, they will be able to use that and there will be times when they may have to. This is a different set of options.

This bill doesn't say we will no longer have family and medical leave. It is not incompatible with it. It doesn't outlaw it. People will be able to, if they need or want to, say, ''Because I meet the conditions of the Family and Medical Leave Act, I am going to take time off.'' That is appropriate. We want workers to have that choice and to add to workers another range of choices. It doesn't in any way impair their ability to choose time off under family and medical leave. That is still there. This is merely a way to say to them, if you don't find that comfortable, if you are tired of having to go on welfare and put off bills or borrow money in order to take time off under family and medical leave—you might want to try another way of doing it. Instead of being paid time and a half sometime when you have overtime to work, you would put it in a comp time bank, so later on, when you needed time off to be with a sick child or to go get your car license renewed and stand in that silly line at the department of motor vehicles during working hours when you normally can't do that, you could do it and you don't have to take a pay cut.

The truth of the matter is, this is not the paycheck reduction act at all. This is the way to take time off with pay. The American people believe, I think, a lot of things and, given the amount of misinformation, I guess that is expected. But they will not believe that compensatory time off is taking a pay cut. If you earn time and a half as a result of working some overtime and you are going to take time off the next week and still get paid for it, that means you get time off without a pay cut, not that you get time off with a pay cut. So I think it is important for us to understand that.

The Senator from Massachusetts thinks that there are tremendous opportunities for abuse, in the event we would average the work week over 80 hours instead of 40 hours and only at the option of the worker—only with the approval of the worker. He talks about the potential abuse of an employer choosing one person as opposed to another person for overtime. Yet, he lauds the current system. I guess his point is that if they want somebody to work overtime on Monday, they can say, ''Who will work it tonight and take a couple hours off on Friday afternoon?'' He thinks that is OK as long as it is done within 1 week. But over a 2-week period it is somehow a great threat. Employers would be abusive in a 2-week stretch, but not in a 40-hour stretch.

Get serious. The truth of the matter is that we ought to understand that, where there are abuses, we ought to have strict, tough enforcement, and I think we can agree on that. We have doubled the penalty for abuses under this law. But to make it illegal for an individual to take an hour off on Friday and make it up the next Monday is inappropriate and should be changed. For the life of me, I can't believe that we should persist in that respect. We have seen how this works. We have watched it work in State and local government and in the Federal Government. We haven't been overrun by a series of complaints. We certainly haven't been inundated by a demand to change the bill. It has been in place for 19 years now and is working very well. You would think if this is the kind of thing that was abusive, we would at least have some people talking about it.

I should emphasize, and I want to make very clear to those who would be watching, that nothing in this law mandates any worker to take time off instead of being paid time and a half for overtime. Everything in this law provides penalties for an employer who would coerce a worker into doing so. Nothing in this law provides any mandate that a worker would have to build up a bank of flextime hours. A lot of workers might like to do that. In the event they needed time off, they would not have to take a pay cut in order to get it.

Flexible working arrangements are enjoyed by the managers, by those in the boardroom, by supervisors, Presidents, CEO's, and corporate treasurers. As a matter of fact, 66 million workers have flexible working arrangements. Only 59 million hourly paid individuals don't. It is time for us to accord to these individuals the same option of working together with their employers

so they can accommodate the needs of their families and work at their jobs. It should be unnecessary to take a pay cut to be a good mom or dad in America. Flexible working arrangements would make it possible for people to meet the needs of their families without taking a pay cut.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Minnesota.

Mr. HARKIN addressed the Chair.

Mr. WELLSTONE. Mr. President, I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Chair advises the Senator from Minnesota that there is no time control.

The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Senator. I should not take more than 15 minutes. Mr. President, listening to my friend from Missouri expound on the wonders and benefits of this bill, once again, reminds me of what I have often said about the U.S. Senate and the 100 Members that comprise this body. There are no bad people in the U.S. Senate. I can honestly say that I like each and every individual here in the Senate. There are no bad people here.

There are just a lot of bad ideas. Listening to this explanation of this bill reminds me once again of that truth. The Senator from Missouri is a friend, and he is a good guy, but this happens to be a very bad idea. I think it is terribly mistaken—what this bill would do in the force and effect of this bill. I am going to get into some of those in my remarks, especially on whether or not this really is a paycheck reduction act, because it really is. Of the three options that people have, it actually would reduce their paychecks.

Mr. President, as our workplace has changed the number of two-parent families has increased. Workers deserve relief to meet the demands of everyday life. That is why, for example, I support, like a number of people here, the Family and Medical Leave Act to allow workers to take time off to care for newborn children, or ailing relatives, without fear of losing their jobs.

Mr. President, millions of Americans have been helped by this landmark law. Now I believe it is time that we expand this profamily protection to provide parents with a little time off from work to attend a parent-teacher conference, or a doctor's appointment for their child.

I have worked my entire career in the House and the Senate to try to improve the lives of working families, and that includes comptime. I support giving families more flexibility to balance their work and family lives, and I am hopeful that we can pass such a bill. However, this bill before us, designated S. 4, is truly a wolf in sheep's clothing. It is a sham. This bill offers the appearance of employee choice but it is not the reality. The appearance but not the reality. In the Labor Committee markup of this bill several amendments were offered to improve this bill to provide real choice and protection for workers. All were rejected on party-line votes. I am going to go through some of them.

I am deeply concerned that this legislation will actually take families in the wrong direction. It gives the employers more flexibility to get out of their overtime obligations rather than giving employees more flexibility to spend time with their families. It will leave workers with less money, not more flexibility, and should be really titled ''Paycheck Reduction Act.'' A genuine comptime bill must provide employees with choice, protection, and flexibility. It has to be commonsense and profamily, and S. 4 falls short on all of those counts.

Supporters claim that S. 4 allows employees to make the choice between overtime pay and comptime, but it doesn't contain the protections that are necessary to ensure that employees have free choice and are free from reprisal. Under this legislation, the employer holds all the cards. The employer chooses what options to provide the flexible work options to, and when the employees can exercise the options. It is also seriously lacking in other important employee protection measures which would ensure flexibility and not a reduction in benefits.

S. 4 outlines three flexible work options, the employer—not the employee—gets to pick what flexible options to provide. An employer could either offer comptime in lieu of overtime pay; second, a biweekly work schedule; third, flexible credit hours. Two of these three options would effectively relieve an employer of their overtime obligations, and result in an actual paycheck reduction for the employee. In effect, S. 4 would eliminate the guarantee of pay for overtime work for over 64 million workers.

Again, when I think about it, what rational employer would not want to maximize profits and savings with their company? The employer has to answer to the shareholders, to the stockholders. They want to maximize that. I understand that dynamic. But on the other side of that equation there must be provisions to protect the employee so that you can have a balance in those scales. This bill does not provide that kind of balance. All of the help goes to the employer and not to the employee.

Again, I understand that employers want to maximize profits. That is their business. They want to ensure that their shareholders get the best return. That is their business. Our business ought to be to ensure that the workers have their rights protected to even out that balance to provide the kind of support for the workers so that this time and their work and their schedules are not totally determined by the employer. That is what this bill does. This bill gives it all to the employer. For example, under the biweekly work schedule, the employer could choose to abandon the 40-hour work week altogether. An employer would not be obligated to pay overtime until an employee works over 80 hours during a 2-week period. So in effect an employee could work 60 hours one week, 20 hours the next week, and receive no overtime pay, or even comptime. Under this scheme an employer could rig it so that overtime hours are never approved and, therefore, the employer has no overtime obligations. That is factual. I challenge anyone to dispute what I just said right there. It is not in the bill. That is what an employer could do. So not only would this result in less income than the employee would receive under current law for working those same hours and no comptime for those who want that time instead of pay but, I submit to you, Mr. President and others, that a 60-hour workweek isn't very family friendly. Under the biweekly schedule it would be extremely difficult for those workers to arrange for child care, or to plan time with their families if their employer could constantly change their work schedule. That is exactly what could happen: 60 hours one week, 20 the next, 50 the next, 30 the next, 60 one week and 20 the next. How could any employee and their family arrange for child care, or to reasonably plan their schedule? That is one of the options under this bill. So we can see that it really is not very family friendly, and it would take away overtime pay and even comptime.

Under the flexible credit hours provision, an employer could offer the employee an option to work the extra hours but receive only 1 hour of overtime for each extra hour worked. Under existing law an employee would be paid time and a half for extra hours worked. Even with comptime, the employee would at least receive 1½ hours of overtime for every extra hour worked. It is hard to believe that any employee would choose this, unless he or she wasn't given any other choice.

In addition, under S. 4, the flexible work hour arrangements would not have to be made available to all employees. The employer picks who gets to participate. The employer could legally discriminate against workers who need and who want overtime pay instead of comptime, and there are no remedies available to the employee to protect it. Again, let me repeat that. The employer could legally discriminate against workers who need and want overtime pay instead of comptime, and there are no remedies available to the employee which might prevent this.

Instead of having a choice, workers may have it chosen for them, or suffer the consequences. For example, the Senator from Missouri cited parts of the bill which say that the employer could not directly or indirectly intimidate, threaten, coerce, et cetera, or anything like that. OK. But what if the employer did this? He could lawfully stop offering overtime to employees who do not participate in flexible options, or they could give promotions

and raises only to those employees who participate. There is nothing in the bill that prohibits that. That sends a strong signal to the employees that they had better participate in what the employer has decided, or they will not get offered overtime, or they don't get the right to promotion, or they don't get the right to raises. There is nothing in this bill that prevents that. So it may be a good deal for the employer but it is a raw deal for the worker who usually receives overtime pay.

This fundamental flaw was outlined clearly during the Labor Committee markup. Senator KENNEDY offered an amendment that would have expressly made it unlawful for an employer to discriminate in awarding overtime, or in awarding overtime based on an employee's willingness to accept comptime instead of overtime pay. It was defeated on a straight party-line vote. Supporters of S. 4 say it prohibits coercion. The bill does not account for the mild but effective pressure employees feel to accommodate their employer. Hourly workers have little leverage in the workplace and are least likely to challenge the employer when it could mean their job, or loss of a promotion, or raise. The workers who rely most heavily on overtime pay are the most vulnerable employees. Consider the following Department of Labor statistics: One-fourth of workers who depend on overtime earn under $12,000 per year. Sixty-one percent earn $20,000, or less. More than 80 percent of overtime recipients earn less than $28,000 a year. When you are making that kind of money, you can't afford to offend your employer.

Supporters of S. 4 often point out that there are remedies when an employer coerces an employee to participate, again a very hollow right. Without more resources for Department of Labor enforcement this is a sham, hollow promise. Employers violate current overtime provisions at an alarming rate. One-third, or 13,687, of the investigations by the Department of Labor in 1996 disclosed overtime violations. The Department ordered over $100 million in back pay for 170,000 workers who were victims of those overtime violations. In addition, there was a backlog of 16,000 unexamined complaints pending at the Department of Labor at the end of 1996. That backlog accounts for about 40 percent of the annual number of complaints. In committee markup, Senator WELLSTONE offered an amendment that would delay the implementation of this bill until the backlog could be reduced to 10 percent. Again, it was defeated on a party-line vote.

You say the employee has a right. They can go to the Department of Labor. They can file a complaint. But look at the odds against you. Look at the odds that you will ever be seen, at the odds that you will ever be compensated if 40 percent of them are still backlogged cases. Plus the fact many of these are low-income workers. They do not know about filing complaints. They don't have an attorney. They are mainly scraping by week to week to take care of their families. If they get in trouble on something like this, they talk about filing a complaint and the employer says, ''You know something. I don't like the way you are performing your job.'' Out the door, fired. They are going to say, ''Boy, I am going to take my time and I am going to file this complaint with the Department of Labor, and I am going to hire me an attorney, and I am going to get what is due me''? No. You know what they are going to do? They are out the door looking for a job. They don't have the time and wherewithal to do that. They are out on the streets. They have some kids to feed, and the rent to pay. So when you say that there are remedies, believe me those are very hollow remedies when you look at these statistics.

Again, despite the statistics that demonstrate overtime violations are just the cost of doing business for some industries, S. 4 doesn't make any attempt to exempt such industries from coverage under this bill. For example, even though the Department of Labor has found that half the garment shops in the United States unlawfully pay less than the minimum wage, fail to pay overtime, or use child labor, S. 4 provides this industry a lawful way to get out of their overtime obligations. Think about that. The Department of Labor found that half of the garment shops pay less than the minimum wage, fail to pay overtime, or use child labor. S. 4 would effectively say to this industry you are exempt. This is the way to get out from underneath that. Again, workers in these industries are the most vulnerable to employee coercion, and the least likely to file any complaints.

During the committee markup, Senator WELLSTONE offered an amendment to exclude from coverage workers who would be particularly vulnerable to exploitation should comptime be offered at their worksites. The Wellstone amendment would have excluded employees in the garment industry as well as part-time seasonal and temporary employees, the most vulnerable in our society. Again, the amendment was defeated on a party-line vote.

Under this bill the employer has the last word when an employee can use their comptime. The employer could lawfully deny comptime for any reason and the employee has no recourse. Let me repeat that. The employee has no recourse if the employer denies comptime for any reason. This bill, S. 4, provides that an employee who requests the use of comptime off shall be permitted to use the comptime ''within a reasonable period,'' if it ''does not unduly disrupt the operations of the employer.'' But nowhere in the bill are the terms ''reasonable period'' and ''unduly disrupt'' defined. They are not defined. So an employee might give an employer 2 weeks' notice of his or her intent to use comptime to take a child to the doctor and have that request denied on the grounds of insufficient notice or the employer could claim that the time off might unduly disrupt business.

There is no definition in the bill of these terms. Employees work hard to earn their comptime. They should be able to use it within a reasonable time unless it substantially interferes with the employer's operations. No one would want to change that.

Now, again, Senator WELLSTONE offered an amendment to ensure that an employee could actually use the earned comptime when he or she needed to, but, again, the amendment was rejected on a straight party-line vote. Supporters claim they want to offer employees more flexibility, but if the employee has little control over when they can use comptime, where, I ask you, is the flexibility? There is none.

And as if giving the employer all the flexibility was not enough, S. 4 does not even provide for the protection of an employee's comptime. Accumulated comptime is an earned benefit that is accepted instead of overtime pay. S. 4 does not contain sufficient protection to ensure that workers whose employers go bankrupt will have some claim on their unpaid comptime. Let us be straight about this. Comptime is what an employee chooses in lieu of overtime pay. I think that is pretty well accepted by everyone on both sides of the aisle. But what happens when an employer goes bankrupt? Do you have a claim on that? No. In 1994, 845,300 businesses filed for bankruptcy. The rate of failure in the garment industry was 146 per 10,000 firms, twice the national average. In construction the rate of business failure was 91 per 10,000 firms. So comptime should be treated as unpaid wages during a bankruptcy.

In addition, comptime should be calculated as hours worked for the purpose of calculating an employee's entitlement to overtime and certain benefits tied to the number of hours worked. No such protection is found in this bill. No such protection. For example, a worker decides to use 8 hours of banked comptime in order to take a 3-day weekend by taking a Monday off. There is no provision in this bill that would prevent an employer from requiring that employee to work 10 hours Tuesday through Friday without paying overtime because only 40 hours would have been counted as worked.

So you bank the comptime. You take a Monday off for a 3-day weekend. Your kid has a day off from school. There is a teacher conference or something like that. Your kid gets a day off from school on Monday. You say we are going to spend some family time this weekend. So I have got my banked comptime. I want to take Monday off. I come back to work on Tuesday and the employer says, OK, you are working 10 hours every day this week and no overtime. No overtime. Why? Because there would only be 40 hours a week. Talk about a disincentive to take comptime.

So, again, businesses go bankrupt. You have overtime pay that is due you. You have a claim in that bankruptcy court. But if you have banked comptime, you are out of luck. Well, it ought to provide that if you have banked comptime and it goes bankrupt, you ought to have a claim, just as if you had banked overtime pay due you.

Also, there is another interesting little feature about this bill I do not think has been pointed out adequately enough. In many industries, contributions to pensions are made for each hour that the employee works. Overtime hours are considered hours worked for purposes of making contributions to these plans. But under this proposal, workers taking comptime not only will lose overtime pay, but they will suffer a reduction in pension benefits as well.

Imagine that. Imagine that. Now we have said, OK, guess what, employee. We are going to make this flexible, as they say in this bill. As I just pointed out, there isn't really much flexibility for the employee. You can now take comptime in lieu of overtime. But what happens if you have a defined benefit plan, a pension benefit plan. Hours worked including overtime hours would mean that you could also make contributions to that benefit plan. Well, if you take comptime, first of all, you lose the overtime pay. You say, OK, that's fine. I am willing to lose the overtime pay for my comptime. OK, fine, but then you suffer a reduction in your pension benefits as well. Another little twist in this bill that makes it harder for employees to take comptime in lieu of overtime pay.

Now, again, in markup, Senator WELLSTONE offered an amendment to count comptime as hours worked for this very purpose of making contributions to their pension programs. Again, it was defeated on a party line vote.

Now, my friend from Missouri talked a lot about he just wants for people in the private sector to have what Federal employees have because Federal employees have this comptime, so he wants private sector people to have the same thing. Well, all right, first of all, I do not believe that Federal employees should enjoy more rights than private sector employees. I supported the Congressional Accountability Act when we passed it in the last Congress. However, the public and private sector operate under very different circumstances. For one, Government agencies do not go in and out of business like thinly capitalized enterprises in the private sector often do. So when a public sector employee accrues comptime, they can count on eventually receiving the benefits.

But as I just pointed out, in the garment industry or construction, where they have high rates of bankruptcies and failures, you may bank the comptime. They go out of business. You are out of luck. Not so if you work for the Government. You are going to get it.

Also, private sector employers are driven by the profit motive. That is as it should be. And as such they are more likely to press their employees to take comptime rather than to pay overtime. Obviously, as I said, what manager does not want, what employer does not want to maximize their profits to make a higher rate of return for their shareholders? That is their business. So, driven by the profit motive, they would want an employee to take comptime rather than overtime pay.

In addition, aside from having a higher rate of unionized workplaces compared to the private sector, most public workplace employees are under the protection of civil service laws. That means if they are, in fact, singled out because of the choices they have made on the job, there is a set body of law that provides for both substantive remedies and a meaningful procedure in order to enforce their rights. Civil service laws.

For example, in the private sector, an employee can be fired for any reason at the will of the employer. In the public sector, employees can only be fired for good cause. They are entitled to a hearing to determine this. So in the private sector, an employee could be fired for not taking comptime, but not in the public sector—a big difference.

Also, Federal employees are entitled by law to paid sick leave, paid vacation, health and retirement benefits. If we could amend this bill to provide private sector employees with all of that, maybe I could support this bill. So I would challenge those on the other side, especially my friend from Missouri, amend the bill, provide the same kind of legal protections to employees in the private sector as employees have in the public sector working for the Federal Government. Maybe you could make a case for this bill. But I daresay they are not going to want to do that.

Lastly, I would like to point out that much of the flexibility the supporters of this legislation claim to want to offer is available right now. It is available now under existing law. So one has to wonder that if employers can do these things now but they are not, what is the real motivation, what is really behind their desire to get rid of the 40-hour workweek? Is it really to provide the comptime on the employer's side, or is it a way of saying, hey, this is a way I can improve my bottom line, increase my profit margin, pay a little bit more to the shareholders.

We got a real hint of this, Mr. President, at the Employment and Training Subcommittee hearing on February 13 of this year. A representative of the National Federation of Independent Businesses said:

> Real small businesses. . . our members cannot afford to pay their employees overtime. This (comptime) bill is something they can offer in exchange that gives them a benefit.

Gives the employer some benefit.

Well, if S. 4 is supposed to be family friendly, employee driven, giving flexibility to the employee as the supporters suggest, why are we looking for ways to give the employer more benefits? But that is what the NFIB representative said, I think in a moment of unguarded candor, if I might so state.

So the bottom line is this. When considering altering overtime protections in current law, the rights of employees must be of paramount importance to any proposal affecting their time and compensation. This proposal before us appears to be neither worker friendly nor family friendly, and the result of its enactment would require employees to work longer hours for less pay.

Lastly, the Senator from Missouri went on at great lengths to say that the special interests are ganging up to defeat this. Special interests? Let me just read a few of the groups opposed to this bill: the League of Women Voters, American Association of University Women, National Council of Senior Citizens, the NAACP, the National Council of La Raza, the Disability Rights Education and Defense Fund, the Union of American Hebrew Congregations, the Southern Christian Leadership Conference, the National Council of Churches, on and on and on. Special interests?

The fact remains, Mr. President, that every group that represents low-income workers is opposed to this bill. Every group that represents low-income workers is opposed to this bill. That is a fact. Special interests? Not at all. Special interests, not opposed to this bill. But those who understand what real life is about and who understand what these low-income workers have to go through, they are opposed to this bill.

Mr. KENNEDY. Will the Senator yield just for a brief question?

Mr. HARKIN. I will yield to the Senator.

Mr. KENNEDY. I know there are others who want to speak. I see my friend, Senator WELLSTONE, in the Chamber. I commend Senator HARKIN for making an excellent presentation. I hope the Senator will perhaps mention the coalition Members that are in support of this bill. The National Association of Manufacturers, the National Federation of Independent Businesses, the National Restaurant Association—they are not shrinking violets in terms of special interest groups. But the bottom line is, as I understand the Senator from Iowa and the Senator from Minnesota, we oppose comptime where employees cannot make the decisions, as they can under the Family and Medical Leave Act and as Federal employees can. The situation might be different if the employee could genuinely make the choice, but, under this bill, there is no choice for the employee. Therefore, we oppose the bill. We draw the line where we say this is basically stacked against the employees. I tried to spell that out earlier. But I just welcome getting the Senator's reaction on that issue.

We are for trying to get those kinds of protections. We were for it in the committee, as the Senator knows, when we tried to get the Murray amendment to give the 24 hours with the decision to be made by the employees. It was voted down by the Republicans unanimously. In terms of the Dodd amendment, it was voted down by them again—where the employee has it. When we get to the bottom line, is that not really the basic issue which is at stake?

Mr. HARKIN. I think the Senator is correct. That is the bottom line at stake. Are we really going to give the employee—are we going to empower the employee to make those decisions? This bill does not do that. This bill actually just gives more power to the employer. It gives more power to the employer to take away from the employee the benefits they have right now for overtime pay and the benefits they would have from, really, accruing comptime.

As I said earlier, again, this is another one of the very bad ideas that periodically come up through the Senate. It sounds good. What's it called? The Family Friendly Workplace Act? Ridiculous. I don't know who thinks up all these titles and these names. Nothing could be farther from the truth.

This is a bill—the intent may be good. I do not question the intent or motivation of my friend from Missouri at all. I just think it is going in the wrong direction. There are ways we can improve this bill. We offered these amendments to the committee. Senator WELLSTONE, Senator KENNEDY, and Senator MURRAY offered amendments to really make this more like what Federal employees have now. The Senator from Missouri is right. Federal employees do have this—with good protection, good comptime. As I point out in my statement, there is a lot of difference between the private sector employer and the public sector. If the Senator from Missouri wants to amend this bill to give private sector employees the same protections as civil service laws give Federal employees, maybe he can make a case for this bill. But that is not the case right now. So you cannot compare Federal employees with employees in the private sector.

This is just an example of good intentions gone awry. Good intentions, I think, messed up by other special interest groups that have come in, as Senator KENNEDY pointed out. Who is for the bill? As I pointed out, every group representing low-income workers is opposed to this bill. If this was such a good bill, they would be for it. I think that is the proof of what this bill is all about. It is a bad bill. It ought to be defeated. I am sure we will have some amendments, and I am sure the Senate in its wisdom will defeat this bill and put it back in the files where it belongs. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, Federal employees have enjoyed flexible work schedules since 1978. It is time to give private sector employees the same options. Today's work rules are too inflexible, and this legislation changes that to meet the needs of today's working families.

The bill provides employees with several options in determining their work schedules.

First, workers would have the option of paid flexible leave. An employee might choose to work 35 hours one week and 45 hours the next, and still receive a full paycheck.

Second, an employee could set 2-week schedules totaling 80 hours in any combination. This would not change the 40-hour work week, as some have said. The Family Friendly Workplace Act simply adds a section to the Fair Labor Standards Act to create options for employees who want flexible work schedules. In addition, this cannot be forced upon an employee. It must be agreed to by the employee and the employer.

Third, employees could choose to take time and a half off instead of overtime. Up to 240 hours of comptime could be banked. Employees would also have the option of cashing out accrued hours for overtime pay at a later date.

No employee would be required to participate in any of these programs, and coercion or intimidation by the employer with respect to participation is prohibited. Strict penalties in this bill ensure that these arrangements will be voluntary. Let me reiterate that all of these options are 100 percent voluntary for workers. Nothing would change for employees who want to work a standard schedule. Employers would still have to pay time and a half for any overtime hours put in by an employee in any week, if that is what the employee wants.

According to the Bureau of Labor Statistics, in 1960 just 39 percent of women who had children between the ages of 6 and 17 were in the work force. Today, 76 percent of mothers with school-age children are working. This increase of working families is not compatible with the one-size-fits-all workplace laws enacted in the 1930's.

I urge my colleagues to support giving working families the opportunity to balance their work and family obligations by supporting this legislation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, there are a number of Senators on the floor. We are undoubtedly going to be back on this bill with plenty of opportunity for amendments and work on it, so I am going to try to be very brief in deference to a number of colleagues. I know my colleague from Texas has to leave very soon, and I see a colleague from Maine here.

My disappointment is that the version of S. 4 that we see right now on the floor is a harsh version. It is not going to pass. It is going to go nowhere.

I would really like to see us do some work together. We had several subcommittee hearings that I thought were productive. I thank my colleague, Senator DEWINE from Ohio, for his leadership. We had a respectful markup. There was discussion in the markup, where amendments were voted down on a straight party vote, in which some of our colleagues appeared interested in modifications and ways of making this a better bill, changes that could bring people together—fixing the bill. That just has not happened. I know there is a managers' amendment. But a lot of concerns that have been raised just have not been spoken to.

The House bill, remember, passed narrowly. That bill was a much more moderate version than this Senate bill. It did not have the 80-hour biweekly work period framework. It did not have the so-called flextime. It was a straight comptime bill. In my view, anything that essentially takes the Fair Labor Standards Act and turns it on its head is not going to go anywhere. That is what the 80-hour framework does. And flextime, which offers little to the employee, does the same thing. I don't believe that anything that is hour for hour as opposed to time and a half is going to go anywhere either.

So I find it surprising and discouraging that we are discussing this particular version of this bill. It is not going to be enacted into law. I really wonder why we are debating it in its present form.

I believe there is some work we can do on the bill. Maybe we can do it through amendments and come out of here with a piece of legislation that we can all get behind. But whatever the bill's press materials promise about it, the fact of the matter is that in its current form the bill turns the clock back half a century. It is simply not going to work. My colleague, for example, came to the floor and was angry about ads that have been run. This is the first time I heard what those ads have to say. But reading from the script of one of the ads, a portion of the voiceover says:

> Big business is moving to gut a law protecting our right to overtime pay. If they win, employers could pay workers with time off instead of money.

That is true. That is absolutely true.

In theory, you could say employees have a right to choose. But the reality of the pattern of power between employees and employers is that quite often employees do not have that power to choose.

Then the ad says:

> They say the choice will be up to us. But there are no real safeguards to keep employers from pressuring workers to accept time off, or telling them when to take it.

That also is true. I pointed out in subcommittee and in committee examples of ways in which overtime law is being violated right now. There is a backlog of complaints at the Department of Labor. Regardless of the theory of the bill, it could very well happen that coercion will take place.

Finally, and I know my colleague from Missouri, whom I enjoy as a

friend, was very worked up about this portion:

You could work up to 40 additional hours a week before qualifying for overtime pay.

That provision is not in the House version of comptime. But in theory, that is true of this Senate version. I don't think it would happen, but the fact of the matter is, when you go from a 40-hour week to an 80-hour biweekly timeframe, that is exactly what could happen. Somebody could work 80 hours one week and not work the next week at all, but for the 80 hours they worked for that first week, there would be no overtime pay for the hours worked over 40 hours. That could happen. That is true. I don't think it would happen. But there is a real danger here, if you don't limit the bill to comptime, of employers being in a situation—and they really do have the power most of the time—where they basically can say to employees: We are interested in the flextime option. We are interested in your working overtime 1 week and taking more time off the next week. But we are not interested in time and a half, premium compensation, which you would earn with comptime.

Employers are in the driver's seat. The real problem is that the bill does not provide the flexibility that it purports to provide. That is a huge problem.

There are two principles, and I am skipping over a lot of what I wanted to say. There are two basic principles at a minimum, I say to my colleague from Missouri, that will be required to make comptime work for employees and give them real flexibility. These should be the basis for the work we do together.

First, it has to be truly voluntary. There has to be some language that puts more teeth into the voluntariness. Frankly, there is not right now.

Second, employees must really get to use their accumulated comptime when they want and need to use it. That was the why of one of the amendments I introduced, which said we have the Family and Medical Leave Act. FMLA makes clear in which cases we let families take some time off, even though millions of people are not covered right now. In any case, this bill would be an opportunity to say to somebody with banked comptime: It's your time. You have earned it. If you have that time and now you need to take time off because you need to go to a PTA meeting or have an illnes in the family, or for that matter you are having problems at home and have been battered, where there are problems of domestic abuse and you need to take time off, you should be able to take that time off. There should not be any question about it. You have earned it as compensation for hours worked. It should not be up to the employer to decide whether you can use it if FMLA reasons exist.

So I just want to make it clear that at the moment I do not see this as a Family Friendly Workplace Act. I do not see it as a Mother's Day present. It is not truly voluntary. We cannot change a piece of legislation that people have given their sweat, blood and tears for, which is what we are talking about when we talk about the Fair Labor Standards Act, unless you keep the integrity of it. We are not doing that here.

So there are some huge problems. The bill is not truly voluntary, No. 1. It moves away from a 40-hour week. It sets up a 2-week, 80-hour framework. That is not in the House bill. I think that has to be out of the bill. It has a flextime option which is just hour for hour. In my view, if we want to get something passed here, we should be making it comptime and we should then say to people, look, we want to give you real choice and the flexibility of using that time when you want and need to use it.

But I say to my colleagues that at this point in time, I don't know what the majority leader's intentions were, but I think it is fine to debate, it is fine to talk. It is not pointless, but this legislation is not going anywhere, not in its present form.

I believe Senator DEWINE is very committed to working out a compromise, and I believe my colleague from Missouri is also committed to a compromise. Maybe the strategy is to stake out an extreme position, with the idea that it helps for negotiating purposes. I don't mean to incur my colleagues' wrath—but I say to them, this is not a Mother's Day present, not in its present form. It is not a Family Friendly Workplace Act, not in its present form. However you package it, and however you try to market it, and however you try to advertise it, the fact of the matter is, you don't have the flexibility for the employee; you take the Fair Labor Standards Act and you turn it on its head. You go to an 80-hour framework and you should not. Then on comptime, you don't really make sure employees truly will have the choice, which is what I thought it was about.

We had some amendments that lost on a straight party-line vote. So let's get rid of the extreme provisions of this legislation, let's talk about the comptime part. Let's talk about how a family, a woman or a man can have this choice between time and a half for overtime pay or time-and-a-half overtime for time needed to be with family. Let's make sure that employees have the flexibility to truly be able to make this choice, that it is not one sided and just for employers. Let's make sure that we really establish a kind of cooperative arrangement. But that is not what this bill does.

I say with some disappointment to a good friend, I oppose it. I think that we will have a strong vote against it. I have to say, it is one of these situations—I promise my colleague from Texas, I will be done in 1 minute now, I know she wants to speak—but really Florence Reese wrote the song, ''Which Side Are You On?'' I heard my colleague from Missouri cite that lyric. I know it by heart because my wife is from Harlan County, KY. It is a great song. It was written during all the coal mining strikes. Of course, you know it's a strong union song.

The fact of the matter is, when I look at the lineup of who is opposed to this bill, and I see all these unions and all these organizations that have fought for civil rights and human rights and for women over the years, I guess I do know who's side I am on. I am on the side of working people.

This piece of legislation could be for working people, but in its present form, it is going nowhere. There are going to be Senators, and I certainly count myself as one of them, who will oppose this with everything we have, and I think we can stop it. I hope we get to the point of having some amendments, figuring out ways we can come together and pass a piece of legislation, but not in this form. I yield the floor.

Mr. WELLSTONE. Mr. President, it is somewhat surprising, and not very encouraging, that we are considering such a harsh version of S. 4 today. The bill before us is essentially the version which was reported out of the Labor Committee on a straight party-line vote. That vote followed rejection by a majority on the committee of a number of amendments which would have improved the bill considerably. All those amendments were defeated on a straight party-line vote.

This version of S. 4 makes almost no changes which directly address the serious and substantive problems in the bill during committee consideration. The managers' amendment has just been made available this morning, so we have not been able to examine it in detail. But it does not appear to be much of an effort to make the bill more acceptable to those who have made a real effort to improve the bill so far.

It is surprising and discouraging that we are considering this particular version of S. 4 for two reasons.

First, many of our colleagues are aware that a comptime bill has passed the House of Representatives. That bill is considerably milder than this bill in its undermining of basic, long-respected labor protections. The House-passed bill does not directly undercut the 40-hour workweek. It does not give employers the option of offering only hour-for-hour compensatory time off in exchange for overtime work—so-called flextime.

Still, the House bill passed narrowly, and it passed under the threat of a likely veto by the President. The President has said he would like to sign a comptime bill. But the Department of Labor has signaled that the President would likely veto a bill like the House bill. In my opinion, a veto of the House-passed bill would clearly be warranted because that bill does not meet the standards of anyone who is serious about trying to help employees cope with the competing demands of work and families.

The House has narrowly passed a bill which likely would, and certainly should, be vetoed. So what is the Senate doing today? Here in the Senate we are considering a bill that is a far blunter and a far more dangerous attack on workers with families, a bill which we all know cannot be enacted in its present form. We know an 80-hour biweekly work period will not become law. Why are we debating it? Do we think the public is fooled by a bill which does away with the 40-hour workweek simply because the measure's proponents say it is voluntary?

It is somewhat absurd. If a Member came and offered a bill doing away with the minimum wage—but on a voluntary basis—we would not take it seriously. If a bill offered employees the voluntary choice of working regularly in conditions which threaten life and limb, we would not take it seriously. A bill doing away with the 40-hour workweek cannot be enacted as drafted, and it should not even be taking our time here today.

The second reason I find it surprising and discouraging that we are discussing this particular version of comptime is that I sat through two hearings on this topic in the Labor Subcommittee on Employment and Training, where I serve as ranking minority member. I heard a great deal of illuminating testimony during the subcommittee hearings. I also engaged, as did others in the Labor Committee, in a respectably rigorous markup of this bill in the full committee.

During these subcommittee and committee meetings we heard a number of expressions of sympathy and concern from Republican colleagues regarding criticisms of S. 4 raised by myself and others. These expressions of concern might have been slightly more persuasive if even one Republican could have found a way to vote for even one Democratic amendment in the committee. Nonetheless, I thought I detected a desire to make this a workable bill. There were suggestions that ways might be found to fix problems in the bill.

Some of us thought that there would be an effort to address the more serious of our concerns between committee and the floor. But the minor changes in the managers' amendment, with one exception do not begin to do that. I will come back to the managers' amendment and our detailed criticisms of this bill's comptime provisions later.

But what we have before us today is hardly an effort at accommodation. The bill in its current form is little more than an affront. Not only have the most offensive provisions for employees—the 80-hour biweekly work period and so-called flextime—not been pulled from the bill. But the comptime provisions which could be the basis of discussion and agreement remain largely unchanged.

Mr. President, many of us on the minority side would like nothing better than to help provide genuine flexibility to working Americans with families. That is what this bill's press materials promise it would do. That is what some of us set out to do 4 years ago when we pushed hard to win eventual passage of the Family Medical Leave Act. Some of today's proponents of S. 4 issued dire warnings back then that the FMLA would harm businesses and the economy. It hasn't. The FMLA has worked well.

That is why our side offered two amendments to S. 4 in committee which would have expanded the FMLA. Millions of workers do not currently enjoy the benefits of the FMLA. Millions who do are able to use it only for medical reasons, not for other times of true family need and importance, such as parent-teacher conferences. This bill purports to provide greater flexibility to employees, so we sought to expand the ability to take unpaid leave in exceptional family circumstances. Unfortunately, both amendments to that effect were defeated.

Many of us on the minority side also would like nothing better than to allow working Americans with families to get more control over their work schedules. What could be more important than to help people juggle work and family by getting more control over their work schedules?

That was the motivation behind an amendment I offered in committee which would have ensured that employees who accumulate comptime as envisioned by this bill would actually get to use it when they want and need to use it. That seemed simple enough.

If the idea of the bill is to help employees get control of their work schedules, if the idea is to be family friendly, then people who accumulate comptime under this bill, which is compensation that has already been earned at some prior date, not vacation or some other benefit conferred by the employer, but previously earned compensation, should be able to use it when they want and need to use it.

My amendment included very reasonable restrictions to avoid harm to employers. It was an honest amendment. It sought to take this bill at its word. At least it sought to take the bill at the word of its own advertising. It sought to provide employees who have families just a little more control over their work schedules by allowing them to choose when it is that they use their earned comptime.

In the case of this bill, however, its advertising and its content are not the same thing at all. Undoubtedly, many workers who may have heard this bill described by it proponents, who may even have heard it described as a Mother's Day gift to working mothers, probably have assumed that if the bill passes and they earn comptime, then they will be able, within reason, to choose when to use that comptime. Sadly, they would be wrong. This bill does not provide for that. My amendment sought to repair this fairly obvious, fairly egregious flaw. But it was defeated.

Many of us on the minority side even find the idea of a truly voluntary choice between cash overtime on one hand, and paid time off at a premium rate on the other—in other words, between cash overtime and comptime—to be an attractive idea on its face. We think comptime might be able to work to the benefit of both employers and employees if it is drafted properly.

Therefore, in the committee we offered a number of additional amendments whose purpose was to take seriously the idea that comptime is indeed meant to deliver on what the title of S. 4 promises. The bill is called the Family Friendly Workplace Act. All those amendments were defeated.

Comptime will not be an easy idea to make work in a way that is truly voluntary. A lot of care must go into drafting such a bill. It is worth remembering that the Fair Labor Standards Act has served both employers and employees well since its initial passage in 1938. We should amend it with care. Nonetheless, the whole law is not sacred. Democrats and working people are not stuck in the past. If we can move forward, and not turn back the clock, it might be possible and desirable to change the Fair Labor Standards Act. But not in the way this bill suggests—not in a way that attempts to turn back the clock when it comes to basic workplace protections.

After the two hearings we held in the Labor Committee's Subcommittee on Employment and Training, I was frankly skeptical about whether comptime could be made truly voluntary and beneficial for employees. It was the testimony of some of the majority witnesses which made me even more skeptical than I was before the hearings. Looking at the version of the bill which has now been brought to the floor, my skepticism appears to have been justified. But still I think comptime could be attractive for many working people if it is drafted properly.

There are two basic principles which at a minimum are required to make comptime attractive for employees: First, it must be truly voluntary; second, employees must really get to use their accumulated comptime when they want and need to use it.

A number of additional protections would be necessary as details to make comptime work. But these two principles are fundamental.

As currently drafted, S. 4 fails both tests. It has additional problems, but above all S. 4 as drafted barely even pretends to be about providing flexibility for working people. It is flexibility for employers. It is flexibility for employers, combined with ways to cut pay for employees. It disfigures what could be a decent idea, comptime, and it adds provisions that even leaders in the House of Representatives did not attempt, which would directly cut workers' pay.

Mr. President, we all understand the game of staking out an extreme position in the hope that you can get more

of what you want through creating the illusion of compromise from a drastic proposal. I hope we will not spend our time on that game. But it appears that is the game we are playing with this bill.

Let us just drop the 80-hour biweekly work period from the bill. It is not a real proposal. It is an insult to working people with families. Many workers face enough indignities without Congress adding to them. Let us drop this frontal attack on the principle of the 40-hour work week.

Second, let us drop the flex hours provision from this bill. That is the provision which would ask workers to work overtime with no premium compensation, only hour-for-hour paid time off.

These are provisions which not even the House of Representatives included in their bill. No one can argue with a straight face that these are not pay-cut provisions. Their purpose is to cut pay. The President will not sign a bill with such provisions. The 80-hour and the flextime provisions simply detract and distract from the debate we should have about comptime.

Mr. President, I would like to conclude with some remarks about working families.

S. 4 is called the Family Friendly Workplace Act. I believe the friendliest thing we could probably do for most working people who have families in America would be to increase their pay. We did that for millions of American workers last year. Perhaps the minimum wage bill which was so fiercely resisted by a number of colleagues on the majority side and by a number of groups who are supporting S. 4 should have been called the Family Friendly Workplace Act.

But whether that is true or not, I believe it is safe to say that any objective person who reads this bill, S. 4, carefully, a person with some familiarity with modern workplaces, might wonder whether its title is actually a grim attempt at humor. They might wonder whether the title, ''Family Friendly Workplace Act,'' is really a mean-spirited and sarcastic message to working Americans. That is because no one who reads this bill carefully, in its current form, could reasonably describe it as family friendly.

S. 4 as written is family-unfriendly. It is a thinly disguised effort to reduce pay and to help employers avoid paying overtime. That is not just rhetoric. That is the bill. I wonder how many families will consider this bill to represent a friendly gesture when we strip it of its happy-face packaging and expose it for what it is: an effort to reduce pay and to help employers avoid paying overtime?

Plenty of employers do try to avoid paying overtime already under current law. And far too many succeed, as we will see later during our debate. We don't need to provide encouragement to cut more pay and avoid paying more overtime.

We will continue to debate S. 4. I look forward to a debate over a number of amendments. I hope to offer one or more myself. I hope that debate can focus on how to construct a truly voluntary and beneficial comptime bill.

But a bill which features two pay-cutting options out of a total of three options for employers and employees is not family friendly.

Mr. President, I would also like to add a brief remark concerning the Managers' amendment. I appreciate the Senator from Ohio's description of it. While we are only seeing it now for the first time, I think we can say that it doesn't go very far toward addressing the deep, substantive concerns many of us have raised against S. 4.

We had some discussion during the committee markup. There was some hope that we could actually work together to make this bill acceptable. But this amendment, as I understand it, makes fairly minor changes—with one exception.

My understanding of the managers' amendment is that it changes the bill's definition of who would be considered a covered employee. That is a substantive step. The change takes a step toward addressing a criticism we raised in committee. It ensures that many part-time and temporary workers would not be covered by the bill's provisions. I don't believe the change goes nearly far enough in exempting vulnerable workers. But it is a move in the correct direction.

The additional changes, again, as I understand them, we are just now seeing them, are minor. One change which we discussed, and which I had hoped we would have agreement on, concerned bankruptcy. I was prepared to offer an amendment in committee to ensure that workers with accumulated comptime would be able to collect on that earned compensation in case of employer bankruptcy. The Senator from Ohio [Mr. DEWINE] indicated that he hoped to address the problem. It is my understanding now that the majority does intend to fix that portion of the bill, although the problem is not addressed by the managers' amendment. I hope we can correct that flaw.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, if I were just a person sitting out there watching this debate, I think my first question would be, ''Well, why can't an employee go to his or her employer and say, 'I'd like to take time off at 3 o'clock on Friday, and could I work extra next week?'''' I am sure people are scratching their heads and saying, ''What would prevent them from doing that?''

The law prevents them from doing that if they are hourly employees. The great Big Brother Federal Government says ''No, no, Mrs. Smith, you cannot go to your employer and ask for time off at 3 o'clock to attend John's soccer game on Friday afternoon and suggest making it up next week. You can't do it if you are an hourly employee,'' because the Fair Labor Standards Act, which was passed in 1938 when fewer than 10 percent of families had both spouses in the workplace, prohibits Dorothy Smith from being able to go in and say, ''I'd like to go to John's soccer game on Friday afternoon, and could I work an extra hour on Monday and Tuesday?''

So now Dorothy, who is one of two-thirds of the working women in America who have school-age children, is being subject to a law that was passed in 1938 that does not even relate to the workplace today.

Mr. President, with the Family Friendly Workplace Act we are trying to bring our labor laws into the 21st century to reflect the changing face of working America and to meet the growing demands of work and family. We realize that two-thirds of the working women in this country have school-age children, and that what they need most is a little relief from the stress caused by being both the provider at work and the caretaker at home. When their child comes up to them and says, ''Mommy, can't you come to my tennis game,'' ''Can't you come to my baseball game this afternoon,'' mommy will no longer have to say, ''No, I'm sorry, there is just no way because Federal law won't allow me to do it.

I have to say, Senator ASHCROFT has provided great leadership on this issue, because until he proposed this bill, I was not fully aware of the restrictions the Fair Labor Standards Act was placing on the hourly working men and women of this country. I, like most Americans, thought it common sense that an hourly employee would have the ability to work a few extra hours 1 week in order to take a few hours off in another week. In fact, as the need for this bill demonstrates, the hourly employee in America has fewer hours than virtually every other class of workers. A salaried employee can work out flexible work arrangements with his or her employer. A Federal employee at any level can do this, but not an hourly employee in the private sector.

Mr. President, I don't see the logic. In fact, when the bill was passed in 1978 to allow hourly Federal workers to have this right, this very important flextime/comptime right, Senator KENNEDY, who is now opposing comptime/flextime for private sector workers, cosponsored that very legislation.

I heard the distinguished Senator from Massachusetts say that our legislation could allow coercion of employers into taking or not taking time off in lieu of overtime pay. In fact, the bill that he cosponsored to extend comptime and flextime to Federal workers allows Federal agencies to make acceptance of comptime in lieu of overtime a condition of employment.

Mr. President, I suggest it is the legislation that the Senator from Massachusetts supported, not the present

bill, that allows for coercion. Far from allowing employers to make comptime or flextime a condition of employment, S. 4 gives employees the absolute right to refuse any of these new options, and provides for severe penalties for employers who might pressure employees one way or the other.

In fact, neither the employee or the employer has the ability to dictate whether the other chooses to participate in a comptime or flextime option. Either side can say, ''No thank you.'' If the employer says on Friday, ''I need you to work 2 extra hours today,'' the employee then has the right to say, ''That's fine, and I will take that in overtime pay,'' or ''That's fine, and I would like to bank that at a time-and-a-half rate to take later on as free time.'' Likewise, if an employee goes to the employer and says, ''I would like to work 2 overtime hours this Friday and take those off with pay next Monday,'' the employer has the right to say, ''I'm sorry, but it doesn't work into the schedule this week.''

But Mr. President, let me make one point clear. Once an employee has accrued either comptime or flextime, the employee would have the legal right to take that time, with pay, with reasonable notice to the employer, so long as taking the time does not unduly disrupt the operations of the business. If the standard were otherwise, Mr. President, scant few employers would even want to offer comptime or flextime, for fear that it might shut down their business if too many employees left at some critical time. A florist simply could not afford to lose his or her employees around Valentine's or Mother's Day, for example. For my colleagues on the other side of the aisle to argue that employees should have the absolute, unfettered right to take time off whenever they choose for other than serious health or family needs is disingenuous. They know that doing so is unreasonable and would prevent workers from having any flexibility because most employers would not be able to offer a comptime or flextime program.

In fact, in the bill that was sponsored by Senators KENNEDY, DODD and others that extended comptime and flextime to Federal workers recognized this. The bill they supported also allows Federal workers to take comptime only within a reasonable period after the employee makes the request and only if the use does not unduly disrupt the operations of the Government agency. That is exactly the same standard in our bill today. By the way, Mr. President, it is also the exact same standard that provides for non-emergency leave under the Family and Medical Leave Act, again supported by my many if not most of my colleagues who now oppose this bill.

But Mr. President, I think the essence of this bill is not whether the employer or the employee have the upper hand legally speaking, because this bill puts them on an even playing field. Rather, it is a matter of the employee and the employer coming together. The only reason an employee would want to take comptime or flextime is so that they can restore some measure of control and sanity to their workweek. The only reason an employer would want to offer comptime or flextime is so that his or her employees will be more engaged, fulfilled, and ultimately more productive at their jobs. This bill truly will create millions of win-win arrangements throughout this country, where both employer and employee walk away happy.

The employer might say, ''Gosh, we've got a big order that has to go out on Friday. Could we, instead, have you work overtime Friday rather than Monday,'' assuming that wasn't the time the employee asked for time off, say it was Thursday. So, of course, the employer can say, ''Well, could you do it at this time?'' I think reasonable people will be able to work this out.

I thought it was very interesting that the distinguished Senator from Iowa, Senator HARKIN said, ''Gosh, what if you have biweekly schedules and a person works 60 hours in 1 week and 20 hours the next week? That may make it harder to find child care.'' What if the person is having a hard time finding child care in the Monday and Tuesday of the following week and would like to go to her employer and say, ''I would like to work extra hours this week when I have child care and take off 2 days next week when I don't have child care?''

The point, Mr. President, is that we are trying to give more options to the hourly employee of this country. I ask the labor unions, what are you afraid of? Why wouldn't you want hourly employees to have this right, because, in fact, you know we have protected labor union contracts in this bill. If employees are under a labor union contract, then this law simply does not apply. If the labor union doesn't allow them to, this bill would not extend to them the right to take comptime or flextime. Labor contracts will not in any way be violated. So why is labor so afraid of this bill? Why would they not allow the hourly employees of our country who don't have labor contracts to have the right to have some added flexibility and manageability in their schedules.

Mr. President, I think it is very important for us to put in perspective that we are adding another option for the hourly employees of this country, because we know that what moms need most if they are working is relief from stress. They need the option of time. This doesn't say they have to take comptime instead of overtime; but it gives them the option.

Recent polls show that these are options that working Americans are overwhelmingly demanding. More and more people in the workplace are saying, ''I'd rather have the time. I would rather have the ability to go home and spend more time with my children, without losing any money in my paycheck.''

A recent Money magazine survey found 64 percent of the public and 68 percent of women would choose time off over cash for overtime work. So, why would we not give the option to those working women to get that time—without wrecking their budgets, I might add?

The Family and Medical Leave Act, as some have called for expanding, gives them time off, but it is not paid time off. We are talking about paid time off in this bill, so that working parents do not have to worry about making the mortgage payment or making the car payment if they take that 2 hours off for their child's soccer game. If their budget is a little tight this month because they had an extra visit to the dentist or the car breaks down, then the employee always has the right to take the cash for the hours he or she has banked. But if they have a secure budget and would rather have a little extra paid time to go to the soccer game, to go to the PTA meeting, to go to the baseball game, the Family Friendly Workplace Act gives them that option. It is an added advantage. It takes nothing away. That is what is important for all of us to remember.

When the labor unions say, ''We think this is a bad bill,'' what are they afraid of? The Federal employees who have this right now love it. The polls show they love it. A recent Government Accounting Office survey found that Federal employees are pleased with their comptime and flextime options, 10 to 1. They love being able to work flexible schedules, like the very popular 9-hour days for 8 days, 8 hours the next day, then taking every other Friday off. They love that option to get to go on a camping trip on Friday or participate in a child's school activity. One parent here in the Washington, DC, area even talked about how wonderful it was that she and so many other parents at her child's school who were Federal employees are able to attend plays, football games, and other school activities on Fridays. She talked about the pride she felt at being able to see her son play football at so many Friday games. I think it is high time that every hourly worker in America have that same ability and right.

Mr. President, we will apparently have a long time to talk about this bill because Senator WELLSTONE and others have signaled they may try and filibuster this bill. He is going to try to avoid a vote on the floor of the Senate on whether we are going to give the 60 million hourly working men and women in this country the same opportunity for flexible scheduling that the rest of the country enjoys. They want to avoid a vote to be able to tell that working mother that ''Yes, you can take Friday afternoon off, with pay, in order to see your child in a school play or to take your child to the doctor.

I think for them to filibuster this bill and not give that added right to hourly employees begs—begs—for an explanation.

Mr. President, I see our distinguished majority leader has come to the floor. I am happy to yield the floor and just say, in closing, that we will not give up this bill. If they are going to filibuster it, they will know we are going to fight for the hourly working moms in this country to spend more time with their children and at the same time be able to make the home mortgage payment and the car payment. Thank you, Mr. President, and I again want to thank the distinguished gentleman from Missouri, Senator ASHCROFT, as well as the distinguished committee and subcommittee chairmen, Senator JEFFORDS and Senator DEWINE, for their leadership and hard work on this most important bill.

I yield the floor.

Mr. LOTT. Mr. President, first, I commend the distinguished Senator from Texas for her remarks today and on several occasions with regard to the working mothers of this country and the women who would benefit from this opportunity, as well as her work on the spousal IRA last year. In so many ways she has raised our sensitivity to ways that we can help the working women and the moms of America.

She was on the air this morning shortly after 7 o'clock, speaking up about this important legislation. I hear her often at all hours of the day. She is doing a great job. I commend her for her leadership.

I also want to thank the Senator from Missouri, Senator ASHCROFT, Senator DEWINE from Ohio, Senator JEFFORDS, all of the Members who have worked to bring this legislation to the floor. S. 4 is probably one of the most important things we can do this year to help the workers of America have flexibility with their work schedules, to deal with the comptime issue in a different way that is more beneficial to them. This is very important legislation.

I had hoped we could come together on an agreement on getting it completed and moving it through the Congress and on to the President for his signature. There were indications in the administration that they would like to do it, and from the Democratic leadership. So far, it has not happened. But we feel this is so important we must bring it to a foreseeable conclusion and make sure that the amendments that are offered are relevant.

CLOTURE MOTION

Mr. LOTT. Therefore, Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee amendment to calendar No. 32, S. 4, the Family Friendly Workplace Act of 1997.

Trent Lott, John Ashcroft, Susan M. Collins, Kay Bailey Hutchison, Mike DeWine, Judd Gregg, Paul Coverdell, Gordon Smith, John W. Warner, Thad Cochran, Conrad Burns, Fred Thompson, Don Nickles, Wayne Allard, Jeff Sessions, Dirk Kempthorne.

Mr. LOTT. For the information of all Senators, the cloture vote on S. 4 will occur on Thursday, May 15, and I ask unanimous consent the vote time be determined by the majority leader after consultation with the Democratic leader and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise to speak in opposition to S. 4, the Family Friendly Workplace Act. At a time when we should be debating ways to raise the wages of working Americans to reverse two decades of decline, S. 4 proposes comptime policies which will place additional downward pressure on the standard of living of working Americans. Rather than seeking a bipartisan solution to give great flexibility to workers without jeopardizing their income, S. 4 unnecessarily undermines longstanding wage protections afforded American workers.

The problem is simple: Working families today find both their time and financial resources stretched to the breaking point. The average working family has not seen their income increase over the past 20 years. In almost two-thirds of families, both mom and dad have to work to make ends meet. Financial resources and family time both are at a premium.

Manifestations of the problem are easy to manage, and they occur in various forms every day. We have heard much discussion about the working mom and her problems. The working mom, for example, might get a call from her daughter's school, and the teacher requests a meeting explaining that the child's grades have slipped, and normally the child is a very attentive child, but she has become disruptive. Concerned about her daughter, who is usually a good student, mom seeks to schedule a teacher conference as quickly as possible without diminishing her income. The factory where she works is currently busy, so she approaches the manager and requests to work an hour of overtime this week so she can take an hour and a half to see her daughter's teacher next Thursday.

How would S. 4 address this problem? Unfortunately, the answer is, inadequately, if at all. First, under S. 4, a worker cannot avail herself of the program. Comptime is provided solely at the discretion of the employer. It is a program that only the employer can offer. Second, even if the employee had been offered comptime and, indeed, had already worked an hour of overtime, there is no guarantee that she will receive the time off that she needs. The Republican bill nebulously allows an employee to take time off within a reasonable period after making the request time does not unduly disrupt the employer.

There are no further guidelines. So, if an employer found the timing of the mother's request was not reasonable or if the time would be unduly disruptive, the request could be denied. Considering the fact that the worker has already earned the right to this compensation, her request for a particular time off deserves deference.

Inexplicably, the sponsors of S. 4 rejected an amendment offered in the Labor and Human Resources Committee that would have ensured a worker receive the time requested if the request was made 2 weeks in advance and would not cause the employer substantial injury. This bill offers quite a bit more flexibility to the employer than it does to the employee, and it does not represent another real option for the wage earner, the hourly wage earner in America.

In addition, there are serious concerns regarding how much choice employees actually will have. The bill contains hortatory language dictating that programs be the voluntary choice of the employee and that employers cannot coerce employees into taking time off in lieu of pay. However, S. 4 fails to provide a verifiable system by which employees choose to take comp time. Indeed, the bill fails to stipulate safeguards concerning potential discrimination.

Under the bill, employees will be quickly divided into two groups: those who accept time off as overtime and those who want pay. The bill does not explicitly or effectively prevent an employer from offering overtime only to those who will accept time off. Again, in committee, the sponsors of S. 4 rejected amendments which would have clarified the principle that employees cannot be distinguished based on their willingness to take nonpaid overtime.

Most seriously, the current Family Friendly Workplace Act contains a provision which devastates the family's ability to both schedule time together and make ends meet: the evisceration of the 40-hour workweek. Under this legislation, an employer would be permitted to schedule employees to work 50, 60, 70, even 80 hours a week without providing any overtime pay. Overtime pay would only be required after working 80 hours in a 2-week period. It is difficult to contemplate how an employee scheduled to work 70 or 80 hours a week at the discretion of the employer will be able to better schedule time to attend to the needs of his or her family. Supporters of the bill may argue that the program is voluntary. Yet the bill's sponsors have denied workers the ability to refuse this voluntary program when the employers offer it.

S. 4 proposes to eliminate a very clear standard; namely, that employees who work more than 40 hours in a week are entitled to premium wages for those extra hours. In its place, the so-called Family Friendly Workplace Act

leaves workers with a nebulous framework. Most of S. 4's provisions are aimed at hourly employees who depend upon their overtime pay. Eight million overtime workers will hold down two jobs in an effort to make financial ends meet and are the most likely targets of this legislation. More than 80 percent of these individuals make less than $28,000 a year. For these people, overtime pay can represent as much as 15 percent of their wages. These workers already face precarious financial situations. The reality is that they cannot risk their job by challenging their employer's application of comptime or realistic demanding wages rather than comptime or flextime. Without clear rules, these workers will be left without redress and left extremely vulnerable.

Would most employers implement comptime in an equitable manner? I am sure many would. However, S. 4 gives managers the authority to effectively eliminate all overtime pay, and truth be told, there are significant numbers of employers who already abuse the current system. Indeed, last year, the Department of Labor awarded $100 million in overtime pay which was wrongly denied by employers. Labor examiners report that half the garment industry now fails to pay the minimum wage. This bill would only protect those who currently violate the law. We should simply exempt these troubled industries from comptime legislation. Yet this was another suggestion rejected by the sponsors of S. 4.

Many Democrats, including myself, would be interested in crafting legislation which ensures flexibility while guaranteeing protections to ensure employee choice—true employee choice. Last year, President Clinton suggested legislation addressing many of these goals. My colleagues should make no mistake, there are solutions to the growing time demands on working families such as the extremely successful Family and Medical Leave Act.

The Family and Medical Leave Act guarantees employees the right to take 12 weeks of unpaid leave for certain family emergencies. Since being enacted in 1993, the Family and Medical Leave Act has been embraced by the vast majority of employers and employees who have been governed by its regulations. Employers have found that it has only incrementally increased the benefits, hiring, and administrative costs they face. The law readily defines eligibility and lengths of benefits. The Family and Medical Leave Act administration costs have been low, if nonexistent, and its benefits extraordinary. Comptime, properly structured comptime, legislation protecting the workers, particularly the most vulnerable workers, could provide the same types of benefits.

Now, proponents of this bill claim that this legislation provides flexibility to needy families. We should be clear. The bill will impact the 50 percent of American workers who receive hourly compensation and are thus classified as hourly wage employees. These are our most economically vulnerable citizens.

A recent article in the Wall Street Journal points out that more and more progressive employees are implementing, under current law, flexible workplace schedules for both hourly and salaried employees. Indeed, as the article points out, one such company, Chevron, has implemented a flexibility option which would allow an employee to work four 10-hour days and have the fifth day off to tend the family. Again, these options are provided under current law.

Now, I compliment these progressive companies for their policies. But I also believe that the Wall Street Journal article points out the reality of some of the fears that are being expressed today on the floor. Businesses are appropriately concerned, first and foremost, with their bottom line. As one corporate manager was quoted in the Wall Street Journal article, ''You have to look at [the work-friendly arrangements] as a business strategy, rather than an accommodation'' because the accommodation doesn't get to the bottom line. Employers will move toward plans that make economic sense to them. Yet, S. 4 provides all the wrong incentives. It potentially discriminates against workers who request pay instead of time off, as well as being inflexible in granting workers' requests for time off.

The PRESIDING OFFICER. The hour of 12:30 has arrived.

Mr. DEWINE. Will the Senator yield?

Mr. REED. Yes.

Mr. DEWINE. How much longer would the Senator like to go so that we can get a unanimous-consent for him to finish?

Mr. REED. Approximately 2 minutes.

Mr. DEWINE. Mr. President, I ask unanimous consent that the time be extended for the recess by an additional 20 minutes. That would enable, I think, the Senators who are now on the floor to make their statements. I ask unanimous consent that we extend our time until 12:50.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I would like to take one moment on a point that has been addressed periodically throughout the course of the debate. First is the argument that this legislation simply gives to private sector employees the same benefits enjoyed by public employees. Public employees do have certain flexibilities, but they also have a great deal more protection than typical hourly wage earners. When we tried to provide some of these additional protections to the private sector at the committee level that are enjoyed by public sector workers, they were rejected.

Public employees can only be fired for cause, unlike most private sector employees, who have at-will contracts. Most public sector employees have grievance systems, which assure them that any disagreements with their employer will receive equitable redress. Public employees need not worry about the bankruptcy of their employer. The list goes on. Public employees have the power to ensure that flexibility works for them. If the sponsors of this legislation had been willing to provide any of these types of protections to those impacted by this bill, I think their argument would have some merit. Unfortunately, my colleagues have been unwilling to incorporate any significant worker protections into their bill.

Mr. President, I believe that this bill has been offered in good faith. Many employers would implement this legislation equitably. However, some employers would not. And, sadly, large sectors of employers do not follow even the current rules.

Unfortunately, portions of this legislation have been hijacked by those same interests who opposed an increase in the minimum wage, the implementation of the Family and Medical Leave Act, and who now impose the implementation of employee-oriented flexible work schedules. This well-intentioned idea now contains large loopholes by which some employers could dramatically reduce the pay of employees.

Mr. President, I hope these problems can be addressed so we can provide today's workers stretched thin by demands of work and family, the power with which to make use of flexible work schedules. I hope we can work to amend this so that it would reflect a bill that is balanced between the needs for employees and time with their families and giving them the opportunities to make the choices so that they can effect the policies for their families and improve the quality and climate of the workplace. I hope that we all can work toward that end.

I thank the Chair and yield back my time.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today not only as a proud original cosponsor of S. 4, the Family Friendly Workplace Act, but also as a parent of three wonderful children. I am a working parent of three wonderful children. Many of my colleagues know from personal experience that being a parent is tough work—even for Senators.

I come to the floor today to speak as an advocate for more family time. My family is my lifeblood. They were by my side long before I became a Senator, and they will be by my side long after I leave this job. If I had to make a choice between politics and parenting, my duties as a father would receive my vote.

Having said that, I think it is important that my colleagues keep in mind that there are millions of working American parents in their States who confront far greater difficulties managing work and families than we do. As a

Senator, I have flexibility to spend time with my family. But what about the millions of working parents that want paid time off with their kids? They can't have it because they remain tethered to a 60-year-old act that prevents them from crossing that bridge to the 21st century.

This is a different world from 60 years ago. In 1938, only 2 out of 12 mothers worked. Now, 9 out of 12 mothers work. We have had so much Government help that two parents in a family have to work. One works to pay the bills; the other one works to pay the taxes. We have to reverse that trend. Until we do, we have to find ways that they can keep the family together and have time to spend with their families.

S. 4 would amend the Fair Labor Standards Act of 1938—not eliminate it from the pages of history, as the opponents of this bill would like us to believe. This vital piece of legislation would provide American working parents with flexible work schedules and increase their choices and options for their time at work and quality time with their families, even if they don't work for the Federal Government. Ensuring that such opportunities are provided for working parents can only serve to strengthen our American families.

I do recognize that there are changes in this Nation's work force that have been made over the past 60 years. There has been this influx of women into our Nation's work force. According to the Bureau of Labor statistics, 63 percent of mother and father households now see both parents working outside the home. Moreover, 76 percent of mothers with school-age children now work.

Americans want flexibility. This month's Money magazine shows that 64 percent of the American public and 68 percent of women would prefer time off to overtime pay—if they had a choice. I predict that these percentages will continue to increase. I urge my colleagues to invest now, while it is still a meager 68 percent. That number will continue to rise and the payoff will be big for our Nation's workers—not just in paid time off from work, but paid time off with family—a true investment in America's future.

Wage payers are not the heartless and cruel reincarnations of Ebenezer Scrooge and Simon Legree, like we keep hearing on the floor here. Having played the wage payer role for more than 26 years, I take great offense when employers are characterized as being the bad guys in this thing. I have been a small businessman, and my wife and I had shoe stores, small shoe stores, family shoe stores. We employed, in each store, three to five people. It gives you a different perspective on the world and on flexibility. Back here, I have been in partisan discussions where we have talked about whether small businesses have 500 employees or 125 employees. I have to tell you, that isn't even close. Small businesses have 1 to 5 employees. These are small businesses where the guy that owns the business sweeps the front walk, cleans the toilet, and waits on customers. That is a focus that we have to get in this United States. We have to think about those small businesses and the flexibility they need, instead of overburdening with continuous regulations and tough forms to fill out for taxes. Eighty percent of the American work force works in those small businesses—90 percent in my State.

Now, they used to have flextime. Why don't they now? They can't afford to litigate. We have become a Nation of victims. If something doesn't go just exactly the way we want it to work, we complain about it, try and figure out how we have been a victim, and we try to figure out how to make somebody pay for it. When it gets into a contentious situation like that, some of the things not provided for in law have to be watched very carefully. That is why there isn't as much flextime now as there used to be. I went to a small business hearing in Casper, and when it was over, the news media said, ''You only had 75 people here at a time. Why were there not more here?'' They are kind of prohibited from coming to daytime hearings, because if they had an extra person to be able to attend the hearing, they would fire them because it would be too much overhead.

That is the kind of perspective we have to look at. Those are the people this seeks to work with. It seeks to give people working in the small businesses some flexibility so they can do the things they need to, without being overburdened by the problems that are provided in the Family and Medical Leave Act. That excludes businesses under 50, and there is a good reason for it. If they have employees with less than 50, they have problems filling out just the paperwork for that bill with 300 pages of regulation. This is a 45-page bill. I can picture small businessmen trying to handle what we may force on them with this many pages of legislation. As for the Ebenezer Scrooges and Simon Legrees, they are probably out there; 2 percent of the businessmen probably fall into that category. We have to quit writing laws to take care of the 2 percent in this country and write laws that take care of the 98 percent, the good employers that want to work together, that want to keep their business going. That is a focus we lost in this discussion.

Part of the reason for this flextime is so that the business can still function. They say, why isn't there a provision in here that absolutely guarantees the employee to take off any time that he wants to? If you only have three people and the other two who don't have an investment in the business insist they are going to leave tomorrow morning, you don't have enough help to take care of the customers. If you do that a few days in a row, you don't have anymore customers. If you don't have the customers, then you don't have a business. I have to tell you, in small business, the employee understands that. He is more sensitive to the business than anybody in the big businesses, and he knows that it is his job that goes. So he is interested in having a flexible work situation that we are trying to provide with this bill and that it does provide with this bill, without putting anybody out of business and taking away all three to five of those jobs.

I have heard some things against the Family Friendly Workplace Act besides the ones mentioned on the floor. Employees have talked to me and say, ''How come there are limits in this bill on how many hours I can collect?'' They would like to work extra so they could have the biggest anniversary party you could ever imagine. They may have a son graduating from college and they want some extended time together, probably their last time together. They may want to build up some hours for that. In this bill, there are limitations on that. So they are going to have to pick one or the other, or maybe neither. I hear the employer saying, well, by golly, this puts us in a bit of a bind, because if there is enough work force around here now, and they have enough flexibility on where they go to work. If my competitor offers this flex, then I am going to have to offer the flex. So it isn't a perfect bill for anybody. But it is a perfect bill for most and it will provide solutions in the work force.

Four years ago, the President signed the Family and Medical Leave Act into law. While well intended, the Federal Government took 13 pages and made it into 300 pages, instead of targeting employees with choices and options, and overburdened everybody with a bunch of paperwork. It is making a difference, but it is unpaid time, without any option in the private sector to change that around so it is paid time.

One of the things that came up in the committee was a request or suggestion that people could take their time, time and a half, take the money, and when they had an emergency or just wanted to see a ball game, they could just pay for it. That isn't how America works. When you get that money, you spend it. Particularly with working mothers, if they get the paycheck, they say this paycheck is now my family's and it has to go for the bills. But they can bank hours; the hours are theirs. The hours are theirs to spend the way they want to. It is a way to bank it. Then if they run into that family emergency where the refrigerator breaks down, they can make that trade and take the money. This bill says you can take the cash if you want to. You can bank the hours, and you can take cash.

It is a much easier situation than trying to meet all of the Federal guidelines on everything else that we have. I have to tell you one of the reasons I am in on this bill. When I was in my campaign, I was in Cheyenne, WY, a

company down there does first-day stamp covers; it's one of the biggest ones in the world. If you want a first-day cover on any stamp, there is a place in Cheyenne—not just for the ones that are going to happen, but for the ones that already happened. It's one of the greatest museums of stamps. When the Federal Government passed this law that said that employees can have flextime and comptime in the Federal Government, the same proposals we are talking about here, some of the people working for that company were married to Federal employees. Now, the ones working for the Federal Government could do that kind of time. The ones working for the private business could not. So they got the employees together and said let's offer this opportunity, and they took it to management and management said, ''why not?'' They offered it to the employees. Then they got in trouble because it is only a Federal law. I ask you, how fair is Government if two people in the same family don't have the same advantages and the one that gets all the advantages is the one working for the Federal Government? Businesses are not Ebenezer Scrooges or Simon Legrees. They are the ones who want it to work for the employees. They have worked on this for 19 years now, and they are overjoyed that we are considering this at this moment. They sent somebody back at their expense to testify on behalf of the employee to get this kind of flex in the schedule.

I ask you, are those people working for Unicover crazy? No, they want flextime in their schedule. Private sector employees know that the Federal employees have this flexibility.

I urge my colleagues to join me in giving the employees the opportunity to balance their work and family obligations. This bill is just common sense. We can put all kinds of smoke screens behind it. We can make it look like it is just for big business.

But, please, on behalf of the small businesses of this country, on behalf of the working people, particularly the working mothers of this country, let's give them some flexibility in their work schedule so that they can have better families. If we have better families, we will have a better America. And the Family Friendly Workplace Act will provide that.

I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I rise to support the Family Friendly Workplace Act once again. Senator JEFFORDS earlier today submitted to the Senate the committee substitute. I would like to take a few moments now to explain the terms of that substitute to the Senate.

I note the time. I, therefore, ask unanimous consent that our time for the recess be extended by an additional 7 minutes.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. DEWINE. I thank the Chair.

Mr. President, as has been pointed out by my colleague, Senator WELLSTONE, we had the opportunity to have hearings. We had the opportunity to thoroughly discuss this bill in not only the subcommittee but the committee. We listened to the criticism. We listened to the constructive comments that were made. I believe that the committee substitute that has been brought forward today addresses the legitimate concerns that were, in fact, raised by many of our colleagues on the other side of the aisle. I think this committee substitute is a fine work product. I am pleased to be able to discuss today some of the details.

First, the collective bargaining process.

When we drafted this bill, we wanted to give nonunion employees the ability to select flexible work options through individualized agreements with their employers—and to give union members the ability to select these options collectively. We wanted all unionized employees to use the collective bargaining process to select these options. During the markup, however, it was pointed out by Senator KENNEDY that the bill actually limited the scope of coverage to unions who are recognized representatives of the employees under section 9(a) of the National Labor Relations Act [NLRA]. It's true that a great many unions are recognized under section 9(a)—but that provision does not, in fact, cover all union members.

Under the committee substitute before us today, all employees who are members of unions will obtain their flexible work options through the collective bargaining process. The new language says, and I quote, ''where a valid collective bargaining agreement exists between an employee and a labor organization that has been certified or recognized as the representative of the employees of employer under applicable law,'' end of quote, the employee may obtain flexible work options through collective bargaining.

I would like to point out, Mr. President, that notwithstanding this amendment, it has always been our intention to ensure that employees participate in S. 4's flexible options through agreements with their employer. Under no circumstances can an employer provide flexible options to an employee without either a written agreement from a non-union employee or collective bargaining agreement on behalf of a union employee.

This measure, along with the bill's anti-coercion measures, was intended and designed to protect employees from being forced to participate in any of the options available under S. 4. Today we simply strengthen that policy.

Senator WELLSTONE expressed concerns about the tenuous and short-lived nature of certain types of jobs in certain industries—questioning the ability of some workers to use and benefit from the flexible work options provided by S. 4. To address this concern, Senator WELLSTONE offered an amendment in markup which would have exempted part-time, seasonal, temporary, and garment-industry workers from the comptime provisions of the bill.

Even though we found Senator WELLSTONE's concerns legitimate, the majority of the Committee disagreed with the proposed solution—the exemption of whole industries and classes of workers as well as giving the Secretary of Labor broad authority to determine the eligibility of other industries.

We believe that workers should be protected from potentially abusive situations and that employees and employers that enter into any agreements have a stable relationship. However, we believe that it would be unfair to exempt whole industries and classes of workers—eliminating even the possibility of participating in a flexible work option, even if they have worked with the same employer for many years.

The solution provided by the committee substitute states that before an employee is eligible for a flexible work option, or before an employer can offer a flexible work option, the employee must work for the employer for 12 months and 1,250 hours within 1 year—ensuring that a stable relationship exists between the employer and the employee.

This solution may sound familiar. That's because it's the same basic requirement that exists under the Family and Medical Leave Act.

This requirement effectively creates the exception Senator WELLSTONE suggested. Employees whose duration is too short-lived or tenuous to take advantage of S. 4's options are excluded. However, employees who are not so situated have an opportunity to develop a stable trusting relationship with their employer.

In addition to satisfying Senator WELLSTONE's concerns, this change will allow long-term employees an opportunity to determine whether their employer is the type to respect the parameters of S. 4's flexible options and to determine if they want to participate or not.

The purpose of this provision—as of the bill in its entirety—is to increase the freedom and flexibility of the workers.

Mr. President, let me now turn to a third change we propose in the bill. We propose aligning the potential damages available for violations of S. 4's biweekly and flexible credit hour provisions. Some of our colleagues appear to believe that it's impossible to modify the Fair Labor Standards Act and still provide adequate protection to working men and women.

If my friends believe this, they are wrong. The purpose of our bill is worker protection. There are severe penalties for employers who violate the workers' rights.

S. 4 had strong penalties under the comptime provisions. The committee substitute takes these strong penalties and extends them to violations under the other flexible workplace options.

Mr. President, the committee substitute will also include an addition to the provisions for biweekly work schedules and flextime options. It will require the Department of Labor to revise its Fair Labor Standards Act posting requirements so employees are on notice of their rights and remedies under the biweekly and flextime options as well as the comptime option.

Let me now discuss the salary basis provision. Under the FLSA's salary basis standard, an employee is said to be paid on a salary basis—and thus exempt from the FLSA overtime requirements—if he or she regularly receives a straight salary rather than hourly pay. These individuals are usually professionals or executives. Furthermore, the FLSA regulations state that an exempt employee's salary is not subject to an improper reduction.

For years this subject to language was noncontroversial. Recently, however, some courts have reinterpreted this language to mean that even the possibility of an employee's salary being improperly docked can be enough to destroy the employee's exemption, even if that employee has never personally experienced a deduction. Seizing upon this reinterpretation, large groups of employees, many of whom are highly compensated, have won multimillion-dollar judgments in back overtime pay—even though many of them never actually experienced a pay deduction of any kind. This problem is especially rife in the public sector.

Mr. President, this legislation would not affect the outcome in cases where a salary has in fact been improperly docked. If an employer docks the pay of a salaried employee because the employee is absent for part of a day or a week, the employee could still lose his or her exempt status.

The purpose of S. 4, in this regard, is to make clear that the employee will not lose his or her exempt status just because he or she is subject to—or not actually experiencing—an improper reduction in pay.

Mr. President, we're making progress on this legislation—a bill that would help give American workers the flexibility they need and deserve as they confront the challenges of a dynamic new century.

This bill will strengthen America's families, by allowing millions of hourly workers to balance family and work. Let's move forward in a bipartisan way to get it passed.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 2:15 p.m.; whereupon, the Senate resembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, I call for the regular order with respect to S. 717.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 717) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JEFFORDS. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I would like to take just a couple of minutes to rise in support of the Individuals With Disabilities Education Act. I have a particular interest in this bill in that I have been involved for a very long time with disabilities, chairman of the disabilities council in Wyoming, my wife teaching special kids, and so I wanted to comment very briefly.

I rise in support of the current bill to reauthorize IDEA, the Individuals With Disabilities Education Act. The Federal Government, in my view, should and does play a rather limited role in elementary and secondary education. This is the responsibility generally of communities, those of us who live there. State and local control, I think, is the strength of our educational system, and yet I believe strongly that this is an appropriate Federal responsibility. This is dealing with that kind of a special problem which exists in all places to ensure that every child has the opportunity to be the best that he or she can be.

IDEA helps local schools meet their constitutional responsibilities to educate everyone, and that is what we want to do. Today nearly twice as many students with disabilities drop out of school compared to students without disabilities, and that is what it is about, to have a program that helps keep students in school.

S. 717 does not have as much punch as legislation considered in the last Congress. Some issues about discipline and litigation were impossible to resolve last year, and therefore there was no reauthorization. This bill, as I understand it, represents a consensus. It is a product of negotiation. No party involved, as usual, received all they had hoped for, but nevertheless it is a fair approach. It is a step in the right direction. This bill has had a very long journey. We owe it to our local school districts to pass this reauthorization legislation that has been stymied for several years.

Education is clearly an issue that is on the minds of all of us. It is on the minds of Wyomingites. There is a great deal of uncertainty regarding the future and shape of secondary and elementary schools in Wyoming. State legislators currently are scrambling to provide a solution to a Supreme Court ruling that funding and opportunities must be allocated more uniformly and fairly across districts in Wyoming. I am hopeful that Congress can pass this IDEA legislation and eliminate at least one of the sources of uncertainty for educators and, more particularly, for parents in my State.

Since its original passage in 1975, it has become clear that there are improvements that are necessary to IDEA. Wyoming teachers and administrators have contacted me expressing concern about the endless paper trail. I hear that every night, as a matter of fact, at home; as I mentioned, my wife teaches special kids and spends, unfortunately, as much time in paperwork as she does with kids. That is too bad.

They complain the current law is unclear and places too much emphasis on paperwork and process rather than actually working hands-on with children. The bill we have before us today attempts to reduce paperwork associated with the individualized educational plan. Teachers and administrators also write to me, and I am sure to my fellow Senators, to ask for strengthening of the discipline and school safety provisions of the law. They want power to take steps necessary to assure that schools are safe for all children. S. 717 would give the power to school officials to remove disabled students who bring weapons or drugs to school and keep them out for as long as 45 days pending a final decision. This will give educators a clearer understanding of how they are able to exercise discipline with disabled children, as they should be able to.

IDEA has also proved to be a highly litigated area of law. This bill will require that mediation be made available in all States as an alternative to the more expensive court hearings. Mediation has been shown effective in resolving most of these kinds of disputes. Meeting with the mediator will help

school professionals and parents reach agreements more quickly.

In summary, S. 717 will help cut down on the overregulatory nature of IDEA. It will allow parents and educators to work out differences by using noncontroversial and nonadversarial methods. It will go a long way toward allowing all children to learn free from danger and serious disruption. And, therefore, Mr. President, I urge that this bill be passed, that we make more certain the opportunities for disabled children in schools throughout the country.

I yield the floor.

Mr. JEFFORDS. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 242

(Purpose: To make technical amendments)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will advise the Senator from Vermont there is a pending amendment.

Mr. JEFFORDS. I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JEFFORDS. I offer the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 242.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike the item relating to section 641 of the Individuals with Disabilities Education Act and insert the following:

''Sec. 641. State Interagency Coordinating Council.

On page 3, strike the item relating to section 644 of the Individuals with Disabilities Education Act and insert the following:

''Sec. 644. Federal Interagency Coordinating Council.

On page 19, line 19, strike ''Alaskan'' and insert ''Alaska''.

On page 26, line 4, strike ''are'' and insert ''is''.

On page 26, line 12, strike ''are'' and insert ''is''.

On page 26, line 15, strike ''include'' and insert ''includes''.

On page 35, line 5, strike ''identify'' and insert ''the identity of''.

On page 55, line 17, strike ''ages'' and insert ''aged''.

On page 55, line 19, insert ''the'' before ''Bureau''.

On page 94, line 24, strike ''Federal or State Supreme court'' and insert ''Federal court or a State's highest court''.

On page 102, strike line 3 and insert the following:

''(i) Notwithstanding clauses (ii) and

On page 140, line 15, strike ''team'' and insert ''Team''.

On page 140, line 22, strike ''team'' and insert ''Team''.

On page 177, line 8, strike ''661'' and insert ''661,''.

On page 196, line 18, strike ''allocations'' and insert ''allotments''.

On page 201, line 22, insert ''with disabilities'' after ''toddlers''.

On page 203, line 23, insert '', consistent with State law,'' after ''(a)(9)''.

On page 208, line 22, strike ''636(a)(10)'' and insert ''635(a)(10)''.

On page 216, line 6, strike ''the child'' and insert ''the infant or toddler''.

On page 216, line 7, strike ''the child'' and insert ''the infant or toddler''.

On page 221, line 5, strike ''A'' and insert ''At least one''.

On page 221, line 8, strike ''A'' and insert ''At least one''.

On page 226, line 4, strike ''paragraph'' and insert ''subsection''.

On page 226, line 7, strike ''allocated'' and insert ''distributed''.

On page 229, line 20, strike ''allocations'' and insert ''allotments''.

On page 229, lined 24 and 25, strike ''allocations'' and insert ''allotments''.

On page 231, strike line 17, and insert the following:

ferred to as the ''Council'') and the chairperson of

On page 260, line 4, strike ''who'' and insert ''that''.

On page 267, line 15, insert ''paragraph'' before ''(1)''.

On page 326, between lines 11 and 12, insert the following:

''(D) SECTIONS 611 AND 619.—Section 611 and 619, as amended by Title I, shall take effect beginning with funds appropriated for fiscal year 1998.

Mr. JEFFORDS. Mr. President, this amendment is purely to make some technical corrections in some misspelled words and a little bad grammar, which we would hardly like to have on an education bill. This was passed by the House this morning and is made part of the House bill. I know of no problems with it from either side and ask unanimous consent that it be considered as adopted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 242) was agreed to.

Mr. JEFFORDS. Mr. President, I now will be going forward with the bill. There will be two amendments to be offered, one by Senator GORTON and the other by Senator SMITH of New Hampshire. They have agreed to a time limitation. I do not know whether it has been shared with the minority or not. Under the agreement, there would be 2 hours equally divided between Senator GORTON and myself, which I will share with Senator HARKIN.

I ask unanimous consent that with respect to the amendment offered by Senator GORTON, there be 2 hours for debate equally divided between Senator GORTON and myself, and I will share with Senator HARKIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. And I add to that unanimous consent that no second-degree amendments shall be considered in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I yield the floor.

AMENDMENT NO. 243

(Purpose: To permit State educational agencies and local educational agencies to establish uniform disciplinary policies)

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the pending amendment be laid aside and that the clerk report the amendment which I send to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for himself and Mr. SMITH of New Hampshire, proposes an amendment numbered 243:

On page 169, between lines 11 and 12, insert the following:

''(10) UNIFORM DISCIPLINARY POLICIES.—Notwithstanding any other provision of this Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction to ensure the safety and appropriate educational atmosphere in its schools.

On page 169, line 12, strike ''(10)'' and insert ''(11)''.

Mr. GORTON. Mr. President, as you know, it is the custom in the Senate to ask unanimous consent that the reading of the amendment be dispensed with. I did not ask for that unanimous consent this afternoon because I wanted to demonstrate that the amendment before us is exactly 7 lines long, to be added to a bill which is 327 pages long—327 pages of detailed requirements imposed on each and every school district in the United States of America from New York City to Los Angeles to one of my own, Harrington, WA, a small school district in a rural farm area.

I will recap only briefly the remarks that I made yesterday relating to this entire bill, and then I will attempt to fit this amendment into some of the objections, perhaps the single most important objection that I have to the bill that is before us.

As was the case yesterday, I must start by saying that we are not operating here today on a clean slate. An Individuals With Disabilities Education Act has been a part of the law of the United States for the last couple of decades. This revises and reauthorizes that proposal. On the narrow question of whether or not this bill is somewhat easier for school districts to administer and grants them somewhat more authority than they have at the present time, the answer can only be in the affirmative. If our only choice was between a continuation of the current

law and the adoption of this bill, I would have to confess that this bill would be superior. Nevertheless, it retains all of the profound policy and balancing of power objections that are applicable to the current law to such extent that the relatively modest improvements in this bill simply do not make it an appropriate law to be passed by the Congress of the United States and imposed on every school authority and on every student and on every teacher of the United States. So it is with deep regret, and in spite of the view that the education of the disabled is an important priority, that some aid and assistance, at least, of the Federal Government to that end is an important priority, that I present this amendment and oppose the bill as a whole.

It seems to me that fundamentally the objections to the bill fall into two quite separate categories. The first and the easiest to understand is that this bill, as is the case with the current IDEA statute, imposes a huge unfunded mandate on all of the school systems of the United States. We are told, I believe by the Congressional Budget Office, that the costs imposed on the school districts of the United States next year, 1998, in that 1 year alone, will be $35 billion. That number is greater than the sum of all of the discretionary appropriations for education from kindergarten through high school passed by this Congress. As against that $35 billion mandate, we will appropriate somewhere between $3 and $4 billion to the States and the school districts when we have finished our work for the year. For the current year, the figure is just over $3 billion. So, perhaps for every $10 of costs and expenses we impose on our school districts, we will reimburse our schools $1.

It is difficult for me to imagine any Member of the U.S. Senate standing up on this floor supporting this bill if that Senator had to persuade the Congress to appropriate $35 billion to enforce it. Given the nature of our budget challenges, given our bipartisan desire for a balanced budget, given the agreement between the President of the United States and the leadership of the Congress on the budget for this year, we would not be able to find that $35 billion without repealing all of the other aid to K–12 education bills and a number of our higher education expenditures as well.

So, what Congress is doing in this bill, just as it has done for the last 20 years, is saying to each school district: We know what is best for you. We are going to tell you what you have to do. But we are not going to pay for it. This is, I am informed, the largest unfunded mandate we impose in the U.S. Congress except for some of our environmental mandates that are spread out over the private sector as well as over the public sector. It is, we are told by the Advisory Council on Intergovernmental Relations, the piece of legislation that creates the fourth greatest amount of litigation of any of the statutes of the United States. Why? Because of its immense complexity.

So, fundamentally, it is wrong that we should be debating a bill like this, or its predecessor, because we are not willing to pay for the consequences of our own actions. We make the rules. We do not pay the bills. That is the first objection to the bill, and I must confess the amendment I have just introduced does nothing about that unfunded mandate whatsoever.

The second objection has to do with the highly valid but nevertheless extremely narrow focus of the bill. The theory of the bill, the philosophy of the bill, is to guarantee a free public education to all disabled students or potential students of a grade-school or high-school age. The focus is narrow because the bill allows school districts, in providing this education, to focus on nothing else. With respect to the bill and its mandates, no other interests are even relevant. The costs of providing the education are not relevant. The individual education plan can be literally unlimited in the cost for an individual student—costs which obviously come out of the same pool of money which educates every other student and thus deprives each and every other student of what that money could furnish. The safety of the schoolroom or the school grounds is not a relevant consideration, with the narrowest of limitations, slightly broadened by this bill over current law. The classroom environment for all of the other students is not relevant in the decisions that are made under this bill.

So, whatever the impact on all of the other students, the school district simply may not consider them. Only the beneficiaries of the bill and their perceived welfare, by their parents or by an administrative officer or by a court, may be considered.

One parent in the State of Washington wrote to me on this subject and made the following statement:

> I recently asked my school district attorney what rights I had as a parent when the education program of my child was interrupted by the behaviorally disabled due to legal decisions. His response was, you have no rights.
>
> ''You have no rights.''

Yesterday, I shared with my colleagues a letter from a parent in California who responded, as I suspect thousands of others have responded, to this frustrating decision by taking her child out of the school system entirely. She was required to find privately financed education for just such a student. In this connection, the fundamental flaw in this law, as in its predecessor, is the double standard it sets both for disciplinary proceedings and for classroom environment. Every school district in the United States retains all of the powers that it had previously to discipline students for what in a different context would be criminal offenses—weapons, drugs, assaults and the like. Every school district retains the authority to act on behalf of the majority of its students with respect to classroom atmosphere and environment so a learning environment conducive to the learning of all can be enforced.

If, however, a student is disabled or contrives to get a finding of disability, all of those rules go out of the window. Discipline is severely limited. The right of ultimate and complete expulsion is wiped out entirely, and an elaborate set of requirements that take up many of the 327 pages of this bill are substituted, including legal proceedings in which attorney's fees can be imposed against the school district but not against a parent, even if the parent loses that litigation. And, inevitably, this double standard communicates itself to the students, to the subjects of our education system.

Again, Mr. President, I would like to share with you a comment from the superintendent of the Edmonds School District in the State of Washington. Edmonds is a relatively prosperous, relatively large Seattle suburban school district. Brian Benzel, its superintendent, writes:

> Our major frustration is that we continue to have high expectations for programs thrust on us by the regulations with very little resources to achieve those expectations.
>
> The result is that good people do not understand why we do some of the things we do because they defy common sense. When we try to explain the regulations and the requirements, we all come away as losers and the public support necessary for the public schools is undermined.
>
> We have had several incidents with guns and dangerous knives. We have a strong policy and clearly set an expectation that possession of these items will result in expulsion. At same time, we often get into time-consuming and expensive due process hearings where our principals are the focus of concern rather than the student's behavior. We all begin to think we're attorneys rather than educators.

Another letter from the superintendent of the Othello School District, a rural school district:

> Already this morning I have received two phone calls from principals asking for advice regarding disciplining disabled students. One student is in possession of a knife for the second time this year, and another middle school student has threatened to kill another student. Each time the principal is faced with one of these situations, s/he should not have to worry about negative consequences for trying to provide a safe environment for all of their staff and students. . . . please don't tie the hands of the administrators that are trying so hard to provide a safe learning environment for all of their students.

This is a field which has made modest progress, but it is very modest. Expulsion, as one of the superintendents spoke about, still is not an alternative. And so, Mr. President, the amendment that I have sent to the desk, and I wish to read it just once again, in its entirety it reads:

> Notwithstanding any other provision of this Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to

discipline and order applicable to all children within its jurisdiction to ensure the safety and appropriate educational atmosphere in its schools.

No more and no less than that. No more and no less than considering maybe perhaps our local school boards, our principals and our teachers know more about running their classrooms and are equally concerned with all of their children as we are, we, in this artificial atmosphere, setting out 327 pages of regulations for the ordering of our public schools. Mr. President, that would be wrong if we paid for it, and, as I said earlier, we are not paying for it. Most States have laws relating to the education of the disabled. Most teachers in school districts would do the best job they possibly could in the absence of regulations, even from the State, and yet we feel in our wisdom we can set up one set of rules applicable to every school district across the country that ignores completely individual situations taking place in individual school rooms, each slightly different than the other, and that we can ignore completely the educational atmosphere in which the vast majority of our students live and work.

Is it any wonder that since the passage of this act, we have a constantly increasing number of students who are denominated disabled, when every incentive to a parent is to get such a designation, when we have a large number of so-called experts who will say that the very fact that a student disrupts the classroom is proof of disability, so that the disruption cannot be effectively sanctioned?

I believe that it is inevitable that even if we pass this slightly improved law, the number, the share of those who are denominated disabled will continue to increase; the percentage, the share of the limited dollars available for education will continue to increase. The amount of litigation and lawyer's fees, coming straight out of the educational budget, will continue to increase. One size does not fit all, and my amendment will not cure all of the shortcomings of this bill. It will leave intact the absolute requirement that a free public education be provided to every individual, disabled or not. That will not be affected. It will not solve the money problem of an unfunded mandate.

It will, however, allow the reimposition of a single standard for discipline, classroom safety and classroom environment to be determined by the school authorities most affected by those standards. It will end the process of student after student leaving the public schools because of the impact of the bills, teachers leaving the profession because of the impact of those bills, and the fact that many of us, I know in my own case, receive more complaints about this aspect of the Federal program for education in the United States than we do on any other single subject.

So, knowing in this case that the odds are stacked against me, I have tried to present this amendment in the simplest possible fashion. You either believe in a single standard of discipline and safety and educational atmosphere or you do not. If you believe in it, if you believe in the essential goodness and expertise of the people who are providing our children with their education, you will vote for the amendment. If you disbelieve in that good faith, if you disbelieve in that expertise, your problems and our problems with our public schools are far greater than those dealt with in this amendment. Free our school boards and our teachers and our administrators to provide the education we demand of them for all of our children. Free them by adopting this amendment.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in strong opposition to the amendment of the Senator from the State of Washington. I can understand his particular concern, given that the State of Washington at one time had the highest percentage of due process hearings that resulted in court cases of any State in the country. I would note that the State has taken dramatic action in the last couple of years which has greatly reduced the amount of litigation.

But first of all, let me talk about the word ''mandate,'' as it is used not only the Senator from Washington but also by many others. The indication is that IDEA somehow is a Federal mandate.

Back in the early seventies, there were many court cases and some 26 States were told that they must provide an appropriate education for children with disabilities. In order to provide national uniformity, a national consent decree was developed. The decree provided that, if a State provides for a free education, then it must provide it for everyone and, with respect to students with disabilities, it must provide a free and appropriate education. Part of the definition of ''appropriateness'' were the words ''shall contain mainstream provisions,'' or words to that effect.

It is not just an issue of court cases in those States. This is a constitutional matter—a matter of equal protection.

Congress responded by developing a bill that provided uniformity and attempted to provide information, guidelines, and rules for the States as to how to provide an appropriate education consistent with mainstreaming. It is amazing that, since that bill was written in 1975, there have been no amendments to it other than the 1986 amendments which dealt with other matters, such as early intervention as well as attorney's fees. I hope that sets the background with respect to where we are today.

Now let me talk about the cost of this education. Yes, it is costly. It costs right around $35 billion a year, of which the Federal Government provides only a relatively small amount, some 7 percent to 8 percent. The Gregg amendment, which has already been offered, attempts to rectify our failure to provide the 40 percent we promised back in 1975, but that is another issue.

The Republican education bill, S. 1, delineates a path toward living up to our promise to finance 40 percent of the cost of this education. I hope we do carry out that plan. At the same time, I do not believe we should add any amendments on that issue at this time.

What will the Gorton amendment do? If you talk about lawsuits, if you talk about lawyer's fees, it is a bonanza. This proposal may take care of some of the less than fully employed lawyers around the country. We have 16,000 school districts and, under this amendment, we would have 16,000 sets of rules. It will take us a long time to figure out what that means—which ones do you use and where do you go? Senate bill 717 sets specific rules for everybody across the country, so every State has uniformity. Therefore, I think contrary to the desire of the Senator from Washington, his amendment will exacerbate the problem rather than solve it.

Also, I would like to point out, as to the total cost, you have to consider that it is a constitutional mandate, so it is a necessary cost. It is not something which was added in order to try and benefit some people. This is a constitutional mandate. If you measure those costs and you compare them with the savings that have occurred by virtue of providing this education, then you will come up with a totally different picture.

All of us have observed in our States what has happened. Almost all the institutions which used to house children with disabilities, children who were not able to function in our society, have been closed in Vermont. Even those children who have a particularly difficult time, those who are less educable, are in private foster homes. Millions and millions of dollars have been saved in our State by that alone.

Second, there is the issue of the quality of life of individuals who are able to participate in a school system and are able to have functional lives and be employed. There is story after story after story of young people who have come through the system and become an important part of society—employed and paying their own way. To say that the cost is so high, this amendment will do nothing but increase the cost.

As I indicated earlier, I understand the concern of the Senator from Washington. In 1993, the State of Washington had 72 hearings, 26 of which resulted in court cases. The State of California, on the other hand, had 849 hearings requested—only 10 of which resulted in court cases.

The State of Washington recognized that they had to make some changes, and they did. They implemented a process of getting people together to

talk these things over and find a resolution, and the figures have changed abruptly. They now have a lot of mediation proceedings and few, if any, court cases. In 1995 and 1996, there were 137 mediations in the State of Washington, with 6 pending at the end of the year. Just about all of the cases were settled. During that same period, only three hearings were held.

In view of these improvements, I urge the Senator from Washington to withdraw his amendment. I hope we can take a look at what could happen. If this amendment passes, it would destroy a system which has apparently been working very well and would put us in a position where we would be back to court in about every case.

I hope that the Senator will end this instead of creating a problem which would destroy all of the efforts that the State of Washington has made in the last few years to get rid of the problems they had.

Mr. President, I ask unanimous consent that the facts contained in ''Mediation Due Process Procedures in Special Education Analysis of State Policies'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINDINGS: DUE PROCESS HEARINGS

With few exceptions, states were able to provide statistics in response to survey items that asked for numbers of hearings requested, held and appealed for the years 1991, 1992 and 1993. The data is displayed in Table 6. In some states, data concerning appeals of hearing decisions to state or federal court are not provided to the department of education.

STATE DUE PROCESS HEARINGS 1991, 1992, 1993

State	Hearings requested			Hearings held			Appeals to court		
	1991	1992	1993	1991	1992	1993	1991	1992	1993
AL	27	44	53	10	10	19	1	2	2
AK	4	2	0	4	2	0	1	0	(1)
AZ	(1)	(1)	(1)	7	5	7	(1)	1	1
AR	46	15	39	6	2	13	0	1	0
CA	611	772	849	74	72	58	18	15	10
CO	16	27	26	4	3	2	1	0	0
CT	227	195	278	51	56	77	8	5	8
DE	7	10	5	2	4	3	1	0	0
FL	37	43	31	12	12	17	(1)	(1)	(1)
GA	28	48	57	10	9	24	1	0	2
HI	22	23	25	6	7	6	1	1	0
ID	8	2	6	1	1	2	1	0	(1)
IL	466	507	393	130	133	105	(1)	(1)	(1)
IN	82	59	62	32	19	17	0	1	3
IA	32	25	28	6	5	5	0	0	1
KS	(1)	(1)	31	8	4	11	0	0	0
KY	33	34	50	7	8	9	1	1	0
LA	6	7	20	3	3	7	0	0	1
ME	53	35	64	22	10	23	6	1	2
MD	26	40	50	16	19	46	0	7	14
MA	379	343	458	95	111	89	6	3	2
MI	42	34	33	14	14	19	1	3	1
MN	4	19	16	4	0	3	0	0	0
MS	2	4	23	2	4	10	(1)	(1)	(1)
MO	(1)	(1)	(1)	5	5	7	(1)	(1)	(1)
MT	6	4	10	1	2	3	1	2	0
NE	14	9	3	7	3	1	4	1	0
NV	14	31	28	2	6	5	0	0	0
NH	77	80	74	20	16	15	(1)	(1)	(1)
NJ	643	555	740	(1)	(1)	176	(1)	(1)	(1)
NM	2	5	9	0	0	1	0	0	0
NY	465	500	609	465	500	609	(1)	(1)	(1)
NC	14	24	14	2	3	2	0	1	0
ND	2	4	3	0	2	0	1	0	0
OH	47	49	51	12	12	10	4	4	2
OK	99	83	19	33	16	5	(1)	2	1
OR	26	43	56	5	5	7	(1)	(1)	(1)
PA	264	256	213	112	106	78	6	1	2
RI	32	20	25	6	2	4	0	1	3
SC	1	5	3	1	5	3	0	0	0
SD	16	19	6	3	6	1	0	2	0
TN	40	58	56	(1)	19	12	(1)	(1)	(1)
TX	131	134	118	(1)	(1)	(1)	2	3	1
UT	7	8	5	1	1	0	0	1	0
VT	12	25	22	1	9	7	0	2	2
VA	(1)	63	66	(1)	25	39	(1)	(1)	(1)
WA	(1)	(1)	(1)	19	64	72	5	13	26
WV	29	34	28	4	5	8	(1)	(1)	(1)
WI	24	23	25	5	8	9	1	1	0
WY	2	3	1	2	3	1	0	0	0

STATE DUE PROCESS HEARINGS 1991, 1992, 1993—Continued

[1] No data submitted.

Note.—Responses to items 15, 16 and 18 of the Survey on Selected Features of State Due Process Procedures conducted by the National Association of State Directors of Special Education, 1994.

As shown in Table 7, states are evenly split in the design of their systems as one or two tiered. In a two-tiered system, the initial hearing is at a local or county level with appeal or review available at the state (SEA) level. One-tiered states have a single hearing process provided by the state either directly or through a contract arrangement. An appeal to court after exhausting administrative remedies is an available option for all types of hearing systems.

Mr. JEFFORDS. Mr. President, let me discuss the bill and what it does to take care of these situations. Senate bill 717 provides one set of rules with discretion for school districts and protection for children.

The Gorton amendment, if passed, will kill the bipartisan, bicameral consensus that this measure enjoys. We simply cannot destroy all the work that has gone on throughout this country in bringing us the bill we have today—we all remember what happened last year when we thought we had a consensus. Issues similar to those raised by the Senator from Washington came up, and the whole thing fell apart. We cannot let that happen again.

If the Gorton amendment were to pass, school districts would get no relief. All the major educational organizations support S. 717, and they would all oppose this amendment.

Let me lay out a rationale of how we approach the sensitive issue of handling the discipline problems. Educators and parents need, deserve, and—in fact—have asked for the codification of major Federal policy governing how and when a child with a disability may be disciplined by removal from his or her current educational placement.

The bill takes a balanced approach to discipline. It recognizes the need to maintain safe schools and the same need to preserve the civil rights of children with disabilities.

This bill brings together, for the first time, in the statute the rules that apply to children with disabilities who are subject to disciplinary action and clarifies for school personnel, parents, and others how school disciplinary rules and the obligation to provide a free, appropriate education fit together. The bill provides specificity about important issues such as whether educational services can cease for a disabled child—they cannot—how manifestation determinations are made, what happens to a child with disabilities during the parent appeals, and how to treat children not previously identified as disabled.

We have gone through all that and we worked hard all across the country. We have a consensus on this very difficult issue, one that has been the most contentious for several years. We now have an agreement on how to handle it.

When a child with a disability violates school rules or codes of conduct through possession of weapons, drugs, or demonstration of behavior that is substantially likely to result in injury to the child or others in the school, the bill provides clear and simple guidance about educators' areas of discretion, the parents' role, and the procedural protections for the child. The Gorton amendment would say to a town or a school district that they could throw all this out and put its own in.

Dangerous children can be removed from their current educational placement. Specific standards must be met to sustain any removal. If a behavior that is subject to school discipline is not a manifestation of the child's disability, the child may be disciplined the same as children without disabilities. So, that group which has been troublesome certainly is treated just like any other child. If parents disagree with the removal of their child from his or her current educational placement, they can request an expedited due process hearing. If educators believe that the removal of a child from his or her educational placement must be extended, they can ask for an extension in an expedited due process hearing. So there is a process to make sure that no child who is dangerous is forced on the other children in the classroom.

The bill allows school personnel to move a child with disabilities to an interim, alternative educational setting for up to 45 days if that student has brought a weapon to school or a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function.

The bill gives school personnel the option of requesting that a hearing officer move a child with a disability to an interim, alternative educational setting for up to 45 days if the child is substantially likely to injure themselves or others in their current placement.

I commend the Senator from Washington. He worked so hard last year to make us aware of the need to change this. We took into consideration his advice and counsel. We came up with a version which everybody in the country has agreed to. Why does he now want to supersede it and say, ''Do away with that, let the communities decide what they want to do themselves''?

Including the regular education teacher in an IEP meeting should help to reassure that children with disabilities get appropriate accommodations and support in regular educational classrooms, decreasing the likelihood for a need for discipline.

Under no circumstances can educational services to a child with a disability cease. If a local educational

agency has a policy which prevents it from continuing services when a child is given a long-term suspension or is expelled, the State must assume the obligation to provide educational services to the child with a disability. The disabled child is protected, also.

The discipline records of the child with the disabilities will be transferred when the child changes schools to the same extent that the records of a non disabled child transfer. That is another thing, which I think was also at the suggestion of the Senator from Washington last year, that you ought to be able to provide that record with the child so the school district that receives a child has warning that there may be problems. Prior discipline records will be provided to officials making decisions about a current violation by a child with a disability.

We have gone out of our way to accommodate the suggestions of the Senator from Washington which he made last year. I think he helped us craft a very excellent bill. Why does he now want to throw it all away and say, ''Yes, notwithstanding that we took care of all these problems, we will let the communities decide how they want to do it''?

This would create chaos, and, therefore, I have to very strongly oppose the amendment of the Senator from Washington.

Mr. President, I yield such time as he may consume to the Senator from Indiana.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Indiana is recognized.

Mr. COATS. I do not intend to take a great deal of time. I wanted to comment on this particular legislation.

Mr. President, I, like most Members, if not all Members, have been back at home discussing at official forums, school meetings, and with teachers, educators, parents, and students the impact of the current statute relative to education for children with disabilities.

Clearly, there have been problems. There have been discipline problems, as the Senator from Washington has enunciated. There have been problems of excess regulations and paperwork for teachers. There have been accountability problems for schools. There have been funding problems due to the Federal Government not living up to its promise to fund up to 40 percent of the cost of this particular education.

Now, there have been numerous attempts over the years since this was first introduced—in 1975, I believe—numerous attempts to modify and correct some of these problem areas. Most of those have not succeeded and many of the situations that have been enumerated by the Senator from Washington have continued.

By the same token, there has been nowhere near consensus in this body to revoke that statute. I think there is a solid commitment to provide educational opportunities for students with disabilities. There has been strong support for that. There will continue to be strong support for that.

The question this body has been faced with over the past 3 years is whether or not we could make substantive, important changes addressing many of the problems that arise under the current statute. Our task has been to make effective changes, gain a consensus in support for those changes, and preserve the essence of the statute. These amendments seek to provide all children with disabilities in America with the opportunity for education and do so in a way that provides more accountability, ensures a safe environment for all students, and addresses a number of the other perceived flaws in the current statute.

This has been a 3-year effort. Senator FRIST, from the Labor and Human Resources Committee, undertook the effort as subcommittee chairman last year under the chairmanship of Senator Kassebaum and spent an enormous amount of time and effort trying to pull a consensus together. We were not able to do that by the end of the session.

That effort was restarted in this new Congress under the direction of the majority leader. The majority leader appointed a special task force of Members—a bicameral, bipartisan task force of Members—to see if it was possible to get everybody in one room around one table and address these issues on an issue-by-issue basis and come to some type of an agreement. Now, when you do that, you clearly end up with a piece of legislation that is not perfect from any particular person's point of view. It leaves probably more to be discussed and debated and perhaps corrected in future efforts, but the goal here was to see if we could substantially improve the current legislation.

My colleagues need to understand that the choice here today is not between repealing the statute as it currently exists on the books and going back and writing a new one from scratch. I doubt very much we would be able to successfully do that, or at least come up with something that is in any measure different from the current statute. The choice is: Given the statute on the books; given what we know through experience over 20 years with this particular law and its implications for parents, teachers, students, educators, Members of Congress and appropriators, and others; given the need to put together a consensus that will allow us to substantially improve that current statute; the choice today is, stay with the existing law, with all of the problems that it has, all of the concerns that people have, or move forward on legislation which, while it does not give any one person everything they wanted, moves the mark very substantially toward a better bill.

I think we have done that with S. 717. We have made a better piece of legislation, a better IDEA. It is better for children, better for parents, and it is better for educators.

First, we increase substantially the role that parents play in their children's education. This is a very important principle, to involve the parents more thoroughly, engage them more in the decisions of placement, provide them with information that parents of general education students receive, and give parents access to all their children's records. This provision helps provide accountability, and helps provide a framework for understanding the problems that the teacher might be dealing with in school.

Second, we include children with disabilities in State- or district-wide assessments, and in doing so, we provide systemwide accountability. Schools will now be responsible for what children in special education are learning.

Third, S. 717 moves us toward a much better understanding of the inequity and imbalance that exists in the funding of IDEA whereby the Federal Government has not lived up to its promise to provide 40 percent of the costs of special education. We are actively engaged now in working with the appropriators and others to increase the Federal funding for this act. In fact, the Republican Party, as part of its top priority as defined in our caucus at the beginning of this session, committed to making good on the promise of the Federal Government to pay its full share of IDEA funding, and to no longer leave this obligation and burden on the States and local districts. I am hopeful that the Appropriations Committee can help us this year in making a very substantial step in that direction.

We have taken special care to address the question of the amount of regulations and paperwork that educators have to deal with. This bill provides far more flexibility for teachers and will allow them to spend more time with the children and less time filling out forms.

Finally, we have worked very carefully and very thoroughly to try to craft a discipline provision in this reauthorization bill that addresses many of the concerns raised by the Senator from Washington.

This is a particularly contentious area, and it is important that we understand that the task force looked at this very, very carefully and worked very hard to try to address these concerns.

Now, in regard to specific discipline procedures, we came to the belief that parents needed and, in fact, deserved codification of major Federal policy governing how and when a child with a disability may be disciplined by removal from their current educational placement. Here we have a disagreement with the Senator from Washington. I understand where he is coming from. But to avoid having literally tens, if not hundreds or thousands of different standards, the Federal statute

must include guidelines for a consistent standard that parents and educators can understand, so that everybody knows where we are coming from on this.

The bill takes a balanced approach to discipline procedures. It does not go all the way in the direction that the Senator from Washington would like to go, and it probably goes further than others would like to go. That, again, was part of the consensus that we reached on this legislation. But we do recognize in the discipline section the need to maintain safe schools, and to balance that with the need to retain and preserve the civil rights of children with disabilities. We are dealing with a whole series of court cases. We are dealing with legislation here that has to stand the scrutiny of the courts. So we have to pay attention, obviously, to those cases and try to craft legislation which would give us a constitutionally sound and civil rights compliant discipline procedure.

For the first time, this bill brings together the rules that apply to children with disabilities who are subject to disciplinary action and clarifies for school personnel, parents, and others, how these disciplinary rules work in conjunction with the school's obligation to provide a free, appropriate education. We have to meld these two concepts together to make an effective discipline procedure. The bill provides specificity about important issues, such as whether educational services can cease for disabled children—they cannot. But also how manifestation determinations are made, what happens to a child with a disability during parent appeals, and how to treat children not previously identified as disabled. In each of these categories, we have taken a very substantial step forward, and made very substantial improvement to the current legislation.

When a child with a disability violates school rules or codes of conduct through possession of weapons, drugs, or a demonstration of behavior that is substantially likely to result in injury to the child, or to others in the school, the bill provides clear and simple guidance about educators' areas of discretion, the parent's role, and procedural protections for the child.

Clearly, we must remember that we are dealing here with the potential for litigation, with court cases, with the civil rights of children, the rights of the parents, and the responsibilities that we give to educators. Finding the appropriate balance is not easy. It is very difficult to find that balance that will allow us to meet all these concerns and tests.

Dangerous children can be removed from their current educational placement. I want to stress this. There is a belief here that there is nothing we can do with children whose behavior is disruptive, if they bring violence to the classroom or to themselves, or if they possess weapons or drugs; this is not true. Under this legislation that we are debating and will be voting on, dangerous children can be immediately removed from their current educational placements. Specific standards must be met to sustain their removal.

So you can remove the child, but S. 717 states that you must then apply specific standards in order to sustain that removal. And it is possible to sustain that removal. If a behavior that is subject to school discipline is not a manifestation of the child's disability, the child can be disciplined the same as children without disabilities.

If, however, it is determined that the behavior was a manifestation of their disability, then, obviously, there is a separate standard to follow. If parents disagree with the removal of their child from his or her current educational placement, they can request an expedited due process hearing. These are the parent's rights. If educators believe that the removal of a child from their educational placement must be extended, they can ask for an extension in an expedited due process hearing—once again, the balance of the rights of the parents, the child and the educators.

The bill allows school personnel to remove a child with disabilities to an interim alternative educational setting for up to 45 days if that student has brought a weapon to school or to a school function, or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function. The bill gives school personnel the option of requesting that a hearing officer move a child with a disability to an interim alternative educational setting for up to 45 days if a child is substantially likely to injure themselves or others in their current placement.

There are some other provisions here, Mr. President, which, in the interest of time and because others want to speak, I won't state. I just say to my colleagues that I very much believe we have made substantial improvements and addressed some of the major concerns in the current statute. I don't discount all the things the Senator from Washington says because many in my State have indicated the same to me. We have tried to address those concerns, balancing the civil rights of those students and what we believe are important educational opportunities for those students, with the rights and the needs of teachers to have an orderly and safe classroom.

We have put all this together in this consensus bill which has been crafted with bipartisan support on a bicameral basis. I think we have a bill—maybe the only bill—that can pass. Failure to pass this reauthorization bill, or alternatively passage of the amendments being offered, would undermine the consensus process and put us back to the status quo. We would be right back to a situation where none of the complaints or concerns arising from the current statute are addressed, and we would probably go an even more considerable amount of time before Congress is able to put together consensus to address these significant concerns.

So I hope we will look past what we believe to be perfect and look instead toward what I think is a good, substantial move forward in terms of this statute. I commend the chairman of the committee for his diligent work in that, and Senator HARKIN for his long time support for this and the many others, including the majority leader, who worked so diligently to achieve this legislation.

I thank the Chair and yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I am sorry to interrupt. I know the Senator from Iowa wishes to speak, as do some Senators on this side. Unfortunately, I am now 1 hour late to a hearing that I am supposed to preside over. So I would like to make just one or two remarks after which I will yield the balance of my time to the control of Senator SMITH and he can proceed as he wishes.

Mr. President, I believe firmly that the case for my amendment has been established by the last two speakers, the Senator from Vermont and the Senator from Indiana. We have heard a wave of arguments about manifestation determinations and individual education plans and the fine distinctions between various forms of violence and disorder. My good friend from Vermont has informed me not only that he knows more about education in the State of Washington than I do, but that he knows more about education in the State of Washington than do the superintendents of my schools in the State of Washington. Mr. President, that is the heart of this debate.

If, in fact, you believe the Senator from Vermont knows more about how education ought to be provided to students in the State of Washington and in your State of Idaho, Mr. President, than do the professionals, the teachers and the administrators and the citizen school board members in your State and mine, then by all means, you should vote against my amendment and you should vote for this bill. If you believe that what uniformity means in education in the United States is that we should have exactly the same rules relating to discipline applicable to every one of the thousands of school districts and millions of students in the United States, then you should vote against my amendment and you should vote for this bill. If, however, you believe that uniformity means something quite different, and that is that the rules should be uniform with respect to every student in a given school rather than a demonstrable double standard, in which the student sitting at this desk is subject to one set of rules and the student at that desk, a totally different set of rules, that that student can do things without significant discipline that this student can't,

then you should vote for my amendment.

Somewhat naively, I had thought that all of us believed that education was so important that the most vital decisions relating to it ought to be made as close to the student and parent as possible. My friend from Indiana spoke of involving the parents more in these decisions. This bill does, but only those parents whose children can be determined to be disabled. What about the parents of the nondisabled students? Well, the quote from the letter to me, I simply need to repeat:

I recently asked my school district attorney what rights I had as a parent when the education program of my child was interrupted by the behavioral disabled due to legal decisions. His response was, ''You have no rights.''

Yes, if uniformity means the same rule for every school district, for every school board member, for every principal across the country, then this bill is going in the right direction and my amendment is going in the wrong direction, except, of course, that we are making the rules but we are not paying the bills.

I heard something about this being a constitutional responsibility. Well, Mr. President, if it were a constitutional responsibility, we would not have to legislate at all. But just recently, under the present law, the U.S. Circuit Court of Appeals in the State of Virginia ruled that the Virginia law that stated that there were certain offenses that were egregious enough to allow for the absolute expulsion of a student applied equally to the disabled and to the nondisabled.

No constitutional right for this egregious behavior was found to limit the discretion of the school authorities of Virginia. This bill reverses that decision. It says, ''Oh, no, Virginia, you have to have a double standard. You can expel the nondisabled. You cannot expel the disabled no matter what the offense.''

That is what this bill says. That is not required by the Constitution of the United States. That is a value judgment made by the sponsors and the writers of this bill.

Mr. President, I said yesterday—and it bears repeating just one more time—I have asked school districts to serve as advisory committees to me in every county of the State of Washington with whom I visit. I try to visit at least once a year, and sometimes more than once. Every one of them has someone who is a teacher or a school board member or a principal. This subject is the one brought up by far the most often by all of the people who actually provide education—the interference in the system. Oh, it is true, as the Senator from Vermont said, there are fewer lawsuits over it now than there were a few years ago. Why? Because the school district can't win the lawsuit. So it now surrenders before the process is so much as started. But the costs of that surrender are paid by every other student in those schools.

So I repeat one last time. Mr. President, if the Senators in this body who have written this bill know more about schools and about education—not just another Senator—than the people who have devoted their lives to public schools and to education, then you should follow their example.

Of course, many of the educational organizations have agreed with this bill. Their alternative was even worse—the present system. I don't blame them. I commend them for doing so. But, Mr. President, that doesn't mean they like it. That doesn't mean they think we know what we are doing. That means they were told that this was the most they could get, and you either go along or get lost. And they have chosen to go along. And they made a wise decision. But we don't have to make that decision. We can decide, if we wish, that these are the decisions that ought to be made by educators—not Senators. And, if you believe that, you vote for the Gorton amendment.

Mr. JEFFORDS. Mr. President, I yield 10 minutes to the distinguished Senator from Iowa, a leader in this area.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President I thank Senator JEFFORDS.

First of all, I thank Senator COATS for his recent statement that he just made on the floor. He hit all the right points. He talked about how long this bill had been in the making and the delicate balance that we reached. I thank Senator COATS for his efforts over a long period of time in this area to reach this very delicate balance.

I also see my colleague, Senator FRIST, on the floor. I want to publicly thank Senator FRIST again for his great leadership in this area.

I was just looking up today, and it was on May 9, 1995, that Senator FRIST held the first hearing on this bill—2 years ago. It has taken us 2 years to get to this point. He has worked day and night on this to try to get it through. Last year we had a lot of problems, and Senator FRIST hung in there every step of the way making sure that we got this bill through. It took 2 years. But we no have a well-balanced bill. I want to publicly thank Senator FRIST for hanging in there and not giving up. I appreciate that very much.

Of course, I thank Senator JEFFORDS, our leader on the committee, again for leading us in this area. Again, Senator JEFFORDS was one of the few around here who was there when Public Law 94–142 was passed. He was a leader at that time 22 years ago. He is still here to lead the charge on this landmark legislation.

I want to talk for a couple of minutes with regard to some of the things that Senator GORTON brought up.

First, Senator GORTON said there are two main objections he had to the bill. The first was that it was an unfunded mandate. This is, of course, not an unfunded mandate at all. No matter how many times someone may say it or how strongly they may say it, this is not an unfunded mandate. The Congressional Budget Office, the American Law Division of the Library of Congress, and the Supreme Court, have all said this does not fall under the unfunded mandate legislation. So it is not an unfunded mandate. It is a civil rights bill, it is a law implementing the equal protection clause of the 14th Amendment to the U.S. Constitution. It is not an unfunded mandate.

In other words, Mr. President, let me put it this way. The State of Idaho does not have to provide a free public education to its kids. If the State of Idaho decided to stop that, they can do it. But as long as the State of Idaho decides that they will provide a free public education to all their kids, then the State of Idaho can then not discriminate against kids because they are black or they are brown or they are female or they are disabled. That free education must be available to all kids. The Supreme Court has decided that.

So it is a constitutional mandate, not an unfunded mandate.

What we have said with IDEA—Public Law 94–142—is, ''Look, we will try to help the States meet that obligation because it will cost some money, and we will help them meet that.'' That is why Senator GREGG moved in this area to get the Federal Government to pick up more of that obligation. We should. But I do not want to go into that anymore. Senator JEFFORDS responded to that.

But this is a civil rights bill.

What Senator GORTON's amendment basically says is, if you just read the first words, ''Notwithstanding any other provision of this act,'' each State educational agency, et cetera, can decide for themselves what they want to do. Notwithstanding anything else, they can do whatever they want to do.

Would Senator GORTON apply that same reasoning to the Civil Rights Act of 1964—notwithstanding any other provision of the law, if a jurisdiction wants to discriminate against African-Americans, they can do so, they can fashion whatever framework they want? Would Senator GORTON apply that to title IX and say, ''Well, with regard to women, each jurisdiction can decide whatever they want and how it applies to women''? We can do that with the civil rights bill? Of course not. Civil rights applies to all in this country.

The second thing he brought up was the cost. He mentioned something about the cost of this in terms of the mandate. There are a lot of ways to look at the cost. But what is the marginal cost of this? We have some figures here. You have to look at the savings. The average per student in America for those in special education the average cost is $6,100.

So it costs about 14 percent more marginally to educate a kid with disabilities than a child without disabilities.

Well, is it worth it? We have to ask: Is it worth it to spend that 14 percent?

Look at it this way. Mr. President, in 1974, before the enactment of this bill, 70,655 children were living in State institutions. By 1994, 20 years later, as a direct result of this bill, that number went to 4,001—less than 6 percent of what it had been 20 years before.

What is the cost? What is the savings? The average State institution cost was $82,256 per person in 1994.

So, if you take the difference of $66,654 for kids that are not institutionalized but are in school learning, that is a savings to the State of $5.46 billion each and every year. That doesn't include the savings later on in welfare costs.

For example, my friend, Danny Piper, who got special education, went to school. We figured up for Danny Piper that the total cost of his special education was $63,000. That is what it cost. Danny Piper today is living on his own in an apartment and takes the bus to work. He is employed. He is a taxpayer. He is not in an institution. But when he was born with Down's syndrome, the doctors told his parents, ''Put him in an institution.'' They refused to do so. Because of IDEA, they got him in school in special education. He did well in high school. Now he is working and making money. The cost to the taxpayers of the State of Iowa to institutionalize Danny Piper would have been $5 million. Do you know what it cost us? $63,000 to get him his education.

So you can look at it from the cost, but you have to look at it from the other side—the savings side, not to mention lifestyles, quality of life, and what it means to the Danny Pipers and others not to be institutionalized.

Lastly, Senator GORTON talks about the double standard. I am sorry. That is just not so. There is no double standard here at all.

I guess what we have to ask is, What do we want at the end of the day? At the end of the day, we want a safe classroom with an environment that is conducive to learning for all students. That is what we are all about. What we want to do is teach children behavior that will lead to that safe, quiet classroom that is conducive to learning. Under IDEA, we want to use discipline as a tool to learn and not just as a punishment and to ensure that each child receives the supportive services necessary to function appropriately in a classroom environment.

For example, we have some examples of kids. Here is one. I have hundreds of these examples. Here is one, Nick Evans in Wisconsin. I have a letter here dated January 24, 1997. He was in school. He was fighting. We are told that they did not know what to do with him. We are told by the school that they felt Nick was emotionally disturbed, mentally retarded, and did not belong in the school. They did not know what to do. But they sought an evaluation at the clinic in La Crosse, WI. They met with the child's specialist. He had a superior IQ of over 130. His behavior problem stemmed from tremendous frustration of an unidentified, profound learning disability. Once that was recognized, once he got the supportive services, his behavior problems literally disappeared overnight. Now he is an A, honor roll, student. The kids want to work with him. When he is doing a class work science project, the classmates choose to work with him. This is a kid who the school said, ''Kick him out. Get rid of him. He is disturbing everybody. He is dangerous.'' But he got the supportive services and the proper kind of discipline—the discipline to teach him how to act within that environment.

I can go through a lot of them. Here is Molly, who was very abusive to others, hitting and pushing them; teachers wanting the child removed. A speech language pathologist was called in. They commenced a program and found out that she had a communications problem. Within 12 weeks her ability to talk to her peers grew. Her behavior problems faded away.

Here is a family of three. The children engaged in fighting, aggressive outbursts, name calling. Frustrated by lack of support by the school system, they moved to a neighboring district where they found the support, and now all three of their kids are honor roll students and doing well.

Let me talk about Mike McTaggart of Sioux City, something closer to my home. I visited the school last year. Mike McTaggart is the principal of West Middle School in Sioux City. Listen to this. There are 650 students in the middle school. Student population is 28 percent minority, 32 percent are children with disabilities, and one out of three have IDP. One year prior to Dr. McTaggart coming there and taking over this school, there were 692 suspensions, and of those suspended, 220 were disabled children. The absenteeism rate was 25 percent, and there were 267 referrals to juvenile authorities in 1 year.

In 1 year. Dr. McTaggart came in, and 1 year later the number of suspensions of nondisabled children went from 692 to 156. The number of suspensions of disabled children went from 220 to zero. Attendance has gone from 72 percent to 98.5 percent. Juvenile court referrals went from 267 to 3.

What happened in that 1 year? We had a principal who came in—who brought a different philosophy, a philosophy of using discipline as a tool to teach rather than to punish, and turned that school around by involving kids and involving their parents. That school is very successful today. But if you had looked at that school before he got there, there was a lot of blame on the kids—blame the kids, blame their parents. They shouldn't be there. They are dangerous. Get them out of there. There were 267 referrals to juvenile authorities—from that to 3 in 1 year—and 220 disabled kids were suspended. It went to zero the next year.

I am just saying that is again bringing in someone who understands a different philosophy, that you use discipline as a method of teaching and enabling—not just as a method of punishment.

Lastly, the Senator from Washington State kept asking the question. He had a letter that he was reading from a parent in Washington who basically said that I asked my attorney—and I am paraphrasing here. But the letter the Senator read into the RECORD was, what rights do I have for my child to be free from all this commotion, and dangerous activity in school. And the attorney said, ''You have no rights.'' Well, first of all, I would suggest that parent get a different attorney because you do have rights.

That parent has the right to demand of that school a safe and conducive learning environment. They have a right to demand that. They ought to demand it. What they don't have the right to do is to demand that a disabled kid gets kicked out of school. They don't have that right.

It would be like this. Let's say, Mr. President, that a caucasian kid came to school and had to sit next to an African-American. They said, ''Well, I don't like that. I don't like this integration.'' I am conjuring up memories of a few years ago. ''Oh, no. Those kids cause all kinds of problems in school. They couldn't be conducive to a learning environment.'' Well, we found out that wasn't so, as long as teachers and principals and parents got together, and in sort of an atmosphere of working together, it was fine; no problems.

Let's say that a child went to school, and all of a sudden sitting next to him was a physically disabled child who made them nervous because they didn't look the same, they didn't act the same, they had a physical disability that, well, maybe they weren't like the rest of the kids. Would a parent who said, hey, wait a minute. My kid has to sit there and it's disturbing; it confuses him; it is not a good, conducive atmosphere for him to learn—would that parent have the right to say, kick that disabled kid out of school? No. But what the parent has the right to do is demand of the school that they provide a safe and conducive learning environment.

That means at least to this Senator that the school has to develop strategies to make the classroom safe and quiet and conducive to learning. If kids are disturbed by someone who is in the classroom, by their appearance or by their actions, that means you develop a strategy to deal with it and bring the parents in and provide for an atmosphere where kids can learn, not just a knee-jerk reaction and say, well, the easiest course of action is to expel them, kick them out, get rid of them, segregate them, exclude them.

We have been down that road before. The whole theory of IDEA, the Individuals With Disabilities Education Act, is to mainstream, is to bring people together, not to segregate people.

So I would say to the person who wrote that letter to Senator GORTON, yes, you have that right; go to that school and demand the safe, conducive learning environment. You have that right. But you do not have the right to demand the kid gets kicked out because he or she is disabled. You do not have that right. So I would suggest that perhaps they ought to get a different attorney. I just wanted to make those comments. I did not have the time before.

There was one other thing. Again, showing how things can happen if people really do want to make it work, will work together, on January 29 of this year Elizabeth Healy, a member of the Pittsburgh School Board, testified before our committee. She said she thought IDEA was a good law; it is working. She said the Pittsburgh School District has adopted a family centered inclusive approach to provide special education. Because of what they did in Pittsburgh, because of this family centered approach, the number of due process hearings has plummeted.

Unlike reports from other urban school districts regarding the due process hearings, last year there was only one due process hearing and one special education mediation in the entire school district in Pittsburgh. I do not know a lot about Pittsburgh, but it is a pretty urban city. One due process hearing, one special education mediation in the entire school district.

I might suggest to the Senator from Washington that he might want to take the principal of this school that he keeps talking about with all these problems and maybe send him to Pittsburgh and have him look at what they did there or send him to Sioux City, IA, and we will have him look at what Principal Mike McTaggart did there. And maybe, and I say this in all candor and seriousness, they could pick up some pointers on how to structure the school environment, how to involve the families, so that they will have the same results as Sioux City or the same results as Pittsburgh.

So I am saying it is not impossible. It is very possible to have a safe and conducive learning environment and to meet at the same time the requirements of the Individuals With Disabilities Education Act. What it really takes is a commitment by the school boards, teachers and principals, parents and the community to work together in an atmosphere of mutual accommodation and understanding and support. If they do that, there won't be that many problems. Oh, you will always have some problems, but, my gosh, Pittsburgh went down to one due process hearing. That is the kind of goals we ought to be looking for.

That is what this bill does. That is what this bill does. I have to tell you, Mr. President, a lot of times my heart goes out to teachers who are in the classroom and they are confronted with situations where they have emotionally disturbed kids, physically disabled kids, mentally disabled kids, and that teacher does not have the proper support and learning and training to know how to deal with it. Teachers need that support. They need that kind of training and that kind of educational support that will help them. That is what we are talking about here. If they do that, IDEA will work, but it will not work if our reaction is, first of all, notwithstanding any other provision of this act, let each school district decide for themselves.

That is what the Gorton amendment does. That is not conducive to an inclusionary-type of principle where we are going to bring kids together. We are a much better society today because we have included people with disabilities. We are a stronger society. As President Clinton says so often, as we enter the next century, we cannot leave one person behind, and we certainly should not leave people behind just because they have a physical or mental disability.

That is what this bill does. It provides those kids with that support and those opportunities the kind of education that allows kids to dream and allows kids with disabilities to know that they can fulfill their potential. We all have different potentials. Kids with disabilities are no different. They have potential, too, to achieve, to dream, and to do wonderful things. We have seen it happen because of the Individuals With Disabilities Education Act.

This bill that we have before us, this reauthorization, as I said, is carefully crafted, very balanced. I think it meets all of the needs of parents and school administrators and, most importantly, meets the needs of the kids themselves not to be segregated out but to be included, to make sure they have the support they need so that they can become fully self-sufficient, productive, loyal American citizens in their adulthood. That is what this bill is all about.

Mr. President, are there situations where a school officials must take immmediate action to remove a disabled child from his or her current placement? The answer is yes, and this bill provides for two limited exceptions to the stay put provision under which children with disabilities are entitled to stay in their current placement pending appeals.

Under the first exception to the stay put provision, school officials are provided authority to remove a child from his or her current placement into an interim alternative educational setting for the same amount of time they could remove a nondisabled child, but for not more than 45 days, if the child carries a weapon or knowingly possesses, uses, or sells illegal drugs or controlled substances.

Under the second exception to the stay put provision, local authorities can secure authority from an impartial hearing officer—in addition to a court—to remove a child from his or her current educational placement into an interim alternative educational setting for up to 45 days if the school officials can demonstrate by substantial evidence—that is, beyond a preponderance of the evidence—that maintaining the child in the current placement is substantially likely to result in injury to the child or others.

Some of my colleagues have raised concerns about allowing impartial hearing officers to make these critical decisions. I support this provision for several reasons.

First, this standard codifies the holding in Honig versus Doe. In that case, the burden was clearly placed on the school officials to rebut the presumption in favor of maintaining the child in the current placement. Thus, the case does not deal with perceptions or stereotypes about disabled children but provides authority to remove a child who truly is dangerous.

Second, in giving the authority to make these determinations to impartial hearing officers, the proposal not only includes the ''substantial likelihood of injury'' standard, but also specifies that the hearing officer must consider the appropriateness of the child's current placement and whether reasonable efforts have been made by the local school officials to minimize the risk of harm, including the use of supplementary aids and services, and if the child is moved, the hearing officer must determine that the new placement will allow the child to continue to participate in the general curriculum and to meet the goals of the IMP and that the child will receive services that are designed to address the behavior that led to the removal.

Third, in placing this additional authority with hearing officers, the bill recognizes the important role already assigned to these individuals in guaranteeing the rights of disabled children. It is because of the importance of this role that the act requires that hearing officers be impartial. This means, for example, that a hearing officer could not be an employee of the child's school district. It is my expectation that the Department will re-examine current policies concerning impartiality in order to ensure that, to the maximum extent feasible, the integrity of these persons, and thus the system, is ensured.

It is also my expectation that hearing officers will be provided appropriate training to carry out this new responsibility in an informed and impartial manner and that both SEA's and the Secretary will closely monitor the implementation of this provision.

In sum, Mr. President, we do not have to choose between school chaos and denying education to children with disabilities in order to maintain schools that are safe and conducive to learning. If anything, parents with disabled children want schools that are safe and conducive to learning more than other parents because their children are frequently more distractible and more likely to be the brunt of attacks and abuse.

Parents who have disabled children are not asking that they be excused from learning responsibility and discipline. What they are asking for is that the approaches used be individually tailored to accomplish the objectives of maintaining a school environment that truly is safe and conducive to learning for all children, including children with disabilities.

Mr. President, this bill provides a fair-balanced approach to ensuring school environments that are safe and conducive to learning. I urge my colleagues to support the underlying bill and reject the Gorton amendment.

I yield the floor.

Mr. JEFFORDS. Mr. President, I compliment my good friend from Iowa, who, along with me, came in about the time that this special education legislation was enacted back in 1975, and we have worked closely together on matters of disabilities ever since that time. It is a pleasure to work with the Senator. I think we have had pretty successful adventures along this line.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I yield 10 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for up to 10 minutes.

Mr. FRIST. I thank the Chair.

The amendment that I wish to talk to is the amendment on discipline which would instruct local education agencies to set their own policy in disciplining disabled students. In short, each school district could then have its own distinct policy defined for itself in how to discipline children with and without disabilities. I oppose such an amendment.

A statement was made that the underlying bill is leading us in the wrong direction and that this amendment would set us back in the right direction, at least in that one area of discipline. I disagree.

In the statement, the case was cited that there were two schoolchildren sitting together, one with a disability and one without a disability, and that they both should be treated exactly the same.

I would argue that that is difficult to do. Let me give two brief examples where I find it hard to have a different process other than the one spelled out by Senator JEFFORDS and as spelled out in the definitions. And, yes, it is several pages long because it takes that sort of detail when we are dealing with the issue of individuals with disabilities.

Let us say that one of the people in these chairs has a syndrome called Tourette's syndrome. That individual who would be sitting in that chair could learn just as well as the other individual, could take advantage of the education just as well as that other individual. If that individual has a disability, a disability called Tourette's syndrome where, with everything else hooked up in a normal way, there is one little cross-connection in one little tiny part of the brain that causes that individual, while they are sitting there studying and learning with the same capacity as everybody else, with the potential to be as successful an individual as anybody else, for some reason we do not understand—as a physician, I do not understand, scientists do not understand yet; hopefully, we will change that—that individual all of a sudden blurts out something that does not relate to anything at all.

Should that person have the same process for disciplining as the individual next to him? Some people would say yes. I would say no, that some attention needs to be paid that that is a manifestation. And, yes, we spell it out in the bill. What if we did not? What would we go back to—22, 24 years ago where that student would be thrown out of the classroom and thrown out of school through no fault of their own when they can learn just as well as anybody else? I say no, the process needs to be different. And it is spelled out in detail as the Senator from Vermont has read from the bill earlier—a different process. You can call that a double standard, I guess, because people will react to that and say, no, double standards are wrong. I call it a different process and for a very good reason. If you go back 25 years, you see why.

Or let us say there is another student. Let us call him Tom. Let us put him in the fourth grade. Let us say he can learn well, he has the potential to be everything that one would wish his son to be in the future, yet Tom has a severe developmental disability. Say he is an individual with mental retardation. I do not know exactly what that means, but most people understand generally what I am talking about. And let us say somebody comes up to Tom in the fourth grade—and we all know bullies like this. This is the reality. This is the reality of the classroom today. A bully comes up and says, we are going to get Tom; let's give Tom this little toy gun. ''Tom, this is a little toy gun.'' In truth, this is not a toy gun. In truth, that bully brought it from home, put it in his pocket, and he knows how to get Tom and he gives it to Tom. And Tom says it looks like a toy gun. As a father, I can't tell the difference between toy guns and real guns. I look at them closely. Tom looks at it and says, yes, and I appreciate the gift, and so he puts it in his locker. Now the principal or teacher comes forward and opens the locker and finds what Tom thinks is a toy gun. Remember, Tom can learn just as well as anybody else, can benefit from an education. Should the process be to throw him out of school when it probably is a manifestation of his disability? And so, yes, you can call it a double standard. I call it a process, a very specific process where we do have to spell out manifestation and, yes, it takes more than six lines on one page to do that.

It is not quite so simple, and I would argue that with two people sitting in the same room, if one of them has a manifestation of a disability, we need—and not just we but people across all 16,000 school districts—to have a process, a fair and equitable way, to discipline that individual.

Senator HARKIN mentioned that 2 years ago I held a hearing, and it was really the first hearing I held as chairman of the Subcommittee on Disability Policy. It was about the original enactment and what led to that enactment. I was looking at those hearings, and it was really powerful. I encourage my colleagues to go back and look at that 20-year history, what led up to it. It was very clear that IDEA, the Individuals With Disabilities Education Act, was enacted to establish a consistent policy, not what Senator GORTON's amendment would do, have 16,000 school districts each with their own policy to handle the sort of situation, but it was enacted to establish a consistent policy that people could read and understand for States and school districts to comply with. With what? The equal protection clause under the 14th amendment of the U.S. Constitution.

We hear the words ''unfunded mandate'' and ''mandated.'' We passed IDEA. Unfunded, yes. I will not argue with that. A mandate? This goes back to a civil rights issue as defined by the Supreme Court decision after IDEA was enacted. The Supreme Court, under Smith v. Robinson, recognized IDEA as ''a civil rights statute that aids States in complying with the equal protection clause under the 14th amendment.'' Again, it was very clear to me in those hearings 2 years ago as we went back and looked at the decisions, two landmark decisions that Senator HARKIN talked about yesterday, in 1972 which established the constitutional rights—not a mandate, the constitutional rights—for individuals with disabilities to receive a free, appropriate public education.

So now what we want to do is turn back to allow 16,000—it may be 15,000, it may be 17,000—individual school districts to try to go through this definition to really throw aside what we have learned over the last 20 years, which we have modernized through our current bill, to go back and allow 16,000 school districts to reinvent the wheel, to try to learn once again what we have learned over the last 20 years—potentially 16,000 separate policies.

Talk about lawsuits. We have had many people comment on attorneys and attorney's fees and how difficult it is. Talk about lawsuits with 16,000 different policies. I can see somebody moving from Davidson County where I live to Williamson County only because, as parents of a child with disabilities, they think that the discipline requirements might be fairer. I think lawsuits will explode. Our bill provides one set of rules, an update, defining, yes, manifestation and, yes, discipline

if it is not a manifestation in a very clear way, with discretion for school districts, with protection for children.

The whole manifestation issue I do not think we need go into now. The Senator from Vermont went through it in pretty much detail. But let me just point out again for weapons or drugs—and it has been expanded to cover weapons, possession and use or distribution of illegal drugs—if it is not a manifestation of that disability, the school would discipline that student just as they would a nondisabled student who engaged in such behavior. There is nothing exceptional about that. If it was a manifestation, very clearly—so all 16,000 school districts can understand this civil rights issue—how to discipline that student in an orderly way that parents understand, the individuals with disabilities understand, the principals understand. For all other behavior subject to disciplinary action, again, if it is not a manifestation, that is, other than weapons and other than drugs, again, students are treated just as those without disabilities. If it is a manifestation, again, it is spelled out in IDEA.

I just close and simply say that all major educational organizations do support this bill. It is not perfect. We sat around the table night after night and day after day bringing people together. It is not perfect. But they say support this bill. Why support this bill? Because this bill as clearly defined is the way that we can improve the treatment of individuals with disabilities in discipline.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. I yield the Senator from Minnesota 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. GRAMS. I thank the Chair.

Mr. President, I want to take this opportunity to commend my friend and colleague, Chairman JEFFORDS, for the exemplary work he has done in regard to the reauthorization of the Individuals With Disabilities Education Act. That this is the first time in 22 years that Congress has attempted major changes to its law with any likelihood of success speaks volumes about the time, energy, and commitment Senator JEFFORDS and others have devoted to it.

Over the last 5 months, I have listened to the concern of school board members, students, parents, principals, teachers, and administrators from all over Minnesota on the issue of IDEA. Primarily, each of these groups stressed concern over proliferating litigation, program inflexibility in regard to discipline, and the tremendous cost burdens associated with the mandates that have been placed on our schools.

In regard to the issue of discipline, this legislation provides additional flexibility to deal with children who are disruptive in the classroom or who are otherwise a danger to themselves or others. Clearly, this is an instance where the interests of the child and the interests of sound learning in the classroom must be carefully balanced to ensure that neither are breached. Unfortunately, current Federal law dictates that a child may only be removed from school if the parents consent to removal or if the student brings a firearm to school.

Mr. President, this is not balance at all. This legislation makes considerable strides toward restoring some balance by returning more decisionmaking to the people who know best, and that is those who actually teach our children.

Another issue is litigation. According to a study done by the Minnesota State Legislature, one of the largest factors contributing to the increased costs in educating their children is the cost of special education. Unfortunately, too many of these expenses have nothing to do with buying things such as Braille for the visually impaired or providing instruction for children with disabilities. Many of these expenses are legal fees resulting from litigation between schools and the parents of children with disabilities.

In light of the limited resources available to pay for the mandates imposed by IDEA, this is a glaring flaw that is ripe for reform. Toward this end, S. 717 requires States to establish a mediation system and provides incentives for parents to avail themselves of mediation instead of litigation to amicably resolve their differences.

The one issue that is not addressed in this legislation, however, and it is, in my view, a critical one, is the issue of funding. The Senator from Vermont has urged Senators to wait for another day to tackle this issue. The Senator's objection to dealing with funding at this juncture is not based on substance but, rather, on process, and I fully appreciate these constraints. We need to pass this bill.

However, because I believe the issue of funding is so vital to the success of IDEA's reforms, I must reluctantly part paths with the chairman. I believe the funding issue should be addressed now. As Senator GORTON has pointed out, IDEA is an unfunded mandate on our 50 States and our schools. As such, consistent with the spirit, if not the letter, of the unfunded mandates legislation we approved last Congress, the mandate imposed by IDEA should either be repealed or it should be paid for. As it stands, the Federal Government pays a mere 7 percent of the total cost we impose on our schools through IDEA. It is my considered opinion that the Federal Government should put its money where its mouth is. In short, Congress must fully appreciate the consequences of its actions. If Congress places a premium on a desired goal or sets a priority for States or local governments to attain, the Federal Government must ante up or then reconsider that mandate. And because I believe IDEA serves an important role in the education of our disabled children in Minnesota and throughout the Nation, in this case I believe Congress should ante up. Accordingly, if it is offered, I will support the Gregg amendment to fully fund the Individuals With Disabilities Education Act.

In conclusion, Mr. President, I just wanted to say again I support S. 717 because it does improve upon the commitment we have made to disabled students in Minnesota and throughout the country. Although I wish it would have gone a little farther, I support the Gregg amendment, as I said, because it backs up this profound commitment. But in my view, if we at the Federal level really desire to help our Nation's schools, we will finish the jobs we started. Beyond this, the Federal Government's next job in furthering the education of our children is to step aside and allow parents and school boards to do the job they were designed to do and not the Federal Government.

I thank the Chair. I yield the floor.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 27½ minutes.

Mr. SMITH of New Hampshire. Mr. President, I yield 5 minutes to my distinguished colleague from West Virginia.

Mr. BYRD. Mr. President, I thank my friend, the Senator from New Hampshire, [Mr. SMITH].

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, the Senate is expected to vote shortly on S. 717, the Individuals With Disabilities Education Amendments Act of 1997, also known as the IDEA bill. Mr. President, I compliment the managers of the bill, Mr. HARKIN and Mr. JEFFORDS. They have worked hard and the legislation is certainly an improvement over the current situation.

I do have some reservations about the contents of the bill—I intend to vote for it—and about the manner in which it was brought up for consideration.

Before I cast my vote, I would like to take this opportunity to express my concern with the legislation. First, and foremost, a committee report on S. 717 was not available until early on Monday, yesterday, and the Senate proceeded to debate S. 717 on Monday. That is not anything new around here. We are witnessing more and more of it, and too much of it. I was not able to secure a copy of the report until yesterday afternoon, which constrained my ability to read the committee report as thoroughly as I would have liked. It is unfortunate and unnecessary that our independent judgment as Senators is so often being subjected to

narrow time constraints to render a decision on the ramifications of important bills such as this one.

In addition, I have been contacted by a number of West Virginians who have raised concerns about the ''stay-put'' clause in the current law for violent and disabled students. The ''stay-put'' provision means that a disabled student cannot be removed from his or her current classroom until a hearing is held to resolve the matter. Under S. 717, steps have been taken to attempt to correct this matter by permitting local school authorities to relocate a disabled child into an alternative educational environment for up to 45 days pending an appeal if he or she brings a weapon to a school or a school function, or consumes or solicits a controlled substance.

I think these provisions are improvements, as I say, over the present. But I don't think they go far enough. Why should school authorities be limited to a period of 45 days for the removal of a disabled student—disabled or any other student—who carries a weapon to school or uses drugs at school or school-sponsored events? Why not 90 days? Why not longer, if the situation warrants it? While I applaud the efforts of the sponsors to provide the local schools with more authority to deal with a violent and disabled child, I am disappointed that more stringent discipline provisions are not included in the final draft of the bill. We ought to consider the security and educational needs of every student in the class, in addition to the disabled child.

Finally, I have, over the years, detailed the national problem of alcohol abuse, and have urged people, young and old, not to drink and drive—but not to drink, period. That is the way I feel about it: Not to drink. I have urged people, young and old, to abstain from drinking alcohol. Yet, S. 717 makes no reference to a disabled child who brings or consumes alcohol on school property. I know the sponsors would argue that the bill contains language that would allow local school officials to exact discipline under the same terms that a nondisabled student would face. But it is my opinion that alcohol is just as evil as any other drug defined by the Controlled Substance Act, to which S. 717 refers. Therefore, I believe that the bill should include alcohol under the provisions that relate to school officials' authority for the immediate removal of a disabled child who possesses a weapon or a controlled substance on school property. I hope that, when the managers again consider legislation of this type, they will consider carefully the inclusion of the word ''alcohol.'' It does not hurt to have it in, and it may help.

In conclusion, I will vote for S. 717, the Individuals With Disabilities Education Amendments Act of 1997, but I would like to inform my fellow Senators that the manner in which we have arrived at this point troubles me. Proponents of the bill have argued that the quick markup of the bill and its subsequent expeditious floor clearance was necessary to avoid a subsequent demolition of the fragile agreement that has been reached. Mr. President, if it is all that fragile, perhaps we ought to start over. Mr. President, efforts to ram legislation through, not only in this case but all too many other cases, as we have seen around here in late years, are not consistent with the duties of the Senate to adequately deliberate on a matter that affects millions of disabled and nondisabled children who have a right to a safe and appropriate public education.

Mr. President, I thank the distinguished Senator from New Hampshire for yielding me the time. I again congratulate the managers of the bill and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I want to indicate, first and foremost, that I understand what the sponsors of the bill are trying to do. I support the concept of reforming the IDEA law. I do not fault them for trying to make the changes. What I fault is the process in which we bring the bill to the floor with a locked-up agreement. One of the greatest aspects of the U.S. Senate is that we have the opportunity to debate, and hopefully sometimes have a couple of people listen to what we say and influence an outcome. I realize that does not happen very often around here. But in this particular case, we do not have the opportunity to influence the outcome because we are told: A deal has been struck between the House and the Senate, minority and majority, White House and everybody else. It is just one happy old time here, everything is done and we do not need to debate it, we do not need to suggest any changes.

Perhaps an analogy might be if we had an agreement to spend $1 billion on cancer research and somebody told us if we spent another $50 million we could cure cancer, I think we would be prepared to amend the bill to add the $50 million to the $1 billion in a hurry. So I do not support this kind of process. I do not think it is right, and I think that we can strengthen a bill and, if somewhere along the line the President specifically decides to veto the bill with the strengthened provision, we have a constitutional process—the Founding Fathers thought it out very clearly—which says that bill would come back here, to the Senate and House, and we could override his veto or not. So I do not think anything is lost by allowing Senator GORTON and myself the opportunity to offer amendments in good faith.

You might say, You are offering your amendments. Yes, we are, but we are offering them with just about everybody out there against us, even though I believe our ideas are good.

Senator GORTON made some very interesting points on his amendment, and I rise in strong support of that amendment, which is the business before us. He made the interesting point that he did not feel U.S. Senators necessarily knew more about what was happening in the various school districts in Washington State or in New Hampshire, for that matter, than the people in those districts did. I could not agree with him more. I bring perhaps a different perspective than many of my colleagues here in the Senate. I spent 6 years in the classroom as a teacher. I also spent 6 years on a school board. I know what Public Law 194 is, and I know the good things that that law has done for people who are in need of special education. It has done wonders for many, many students who were in need.

The Senator from Iowa made specific reference to one individual who had been helped under this program. I applaud that. That is not what we are talking about. What we are talking about is this basically distorting the process to write individualized education plans for people who perhaps should not have IEP's; who really are not in the same category as the young man who was mentioned by the Senator from Iowa.

I took the opportunity, even though this is not a bill that is in the jurisdiction of any of my committees—that is Senator JEFFORDS' committee—I did something that perhaps is not always done around here, I wrote to all the school districts in my State and I asked for input on this legislation. I informed them I felt there was a good opportunity, that Senator JEFFORDS and others were moving the bill through the process here, that it was going to improve the special education program or IDEA as we know it, and I think Senator JEFFORDS has done that. He has improved it. But the question again goes back to my original point. Can we improve it more? I think Senator GORTON's amendment does that. I would like to explain why I think that is the case. I would like to explain the rationale for the amendment, which is intended to ensure that the education of all students not be compromised.

This is an important issue. I wish we had the opportunity for more debate, but unfortunately we do not have that. The problem the Gorton-Smith school safety amendment addresses is, I believe, one of the most serious problems in all of the legislation. A safe school environment is a precondition for learning.

I listened to my colleague, for whom I have the greatest respect, Dr. FRIST, the Senator from Tennessee. He used some medical examples and indicated that there are times when these unexplained medical occurrences occur. I understand that. I respect that. I do not claim to challenge his medical knowledge. But I hope we might speak from the teacher's point of view, because that is what this is all about. We are not talking, here, just about helping children who need help. That is one part of it. There are children who need

help. But there are also children, for whatever reason—whether it is because they need help or because they got an IEP that they should not have gotten, an individual educational plan—they are disrupting the classroom. And there are other students in that classroom.

When I am standing before that classroom, trying to teach 25 other students, and this student blurts something out and disrupts the class, or waves a gun in class, or brings drugs into class, or shouts obscenities, or whatever else the student may decide to do, it really, as far as the other 25 students in the class are concerned—I do not really think that they are overly concerned at that point, when the classroom is disrupted and education is disrupted, as to what the cause is, or what the problem may be specifically with this child. It is a problem. If it is a medical problem, it ought to get medical attention. If it is a discipline problem, it ought to get disciplinary attention. That disciplinary attention ought to come from the decisions of the teacher, parents, school board, school administrators—not from the Federal Government. Not from the U.S. Senate.

So, the school safety amendment is a commonsense addition to this bill. That is all it is. It simply ensures that the rules governing discipline in schools may be formulated in such a way as to treat all students uniformly. Without this amendment, S. 717 will preserve the double standard that exists under current law. Students will see there is one standard for students diagnosed with disabilities and another one for those who do not have such a diagnosis.

Recently, my office received a call from a school board chairman in New Hampshire complaining that a student in one of the districts had brought a gun to school. He reported that because the student had been diagnosed with a disability, the school board was powerless to intervene. It goes without saying that without the diagnosis, the situation would have been different.

I ask you, Mr. President, if you are standing in that classroom trying to teach those other students and a kid waves a gun around, at that point, do you really care specifically what his problem is? When somebody walks into a bank and waves a firearm at a clerk, at that point in time, are we really concerned about how difficult his or her childhood may have been, or are we concerned about dealing with the now, what is of utmost urgency, and that is the violence that is pending, immediately and then deal with the other problem? Doesn't that make more sense, I say to my colleagues? That is all Senator GORTON is trying to do. That is all his amendment does.

If you read on page 157 in the bill, basically what it says is that if you have that student waving that gun, you can get that student out of the classroom, according to the Federal Government now dictating to the school district. You can get the student out of the classroom for 45 days. That is very nice that the Federal Government and the Senate and the House and the President have given the school districts a directive that, yes, if you have a kid waving a gun around in Mrs. Jones' class, let's say in the sixth grade, you can take the kid out of school for 45 days. That is very good of the Federal Government to allow that to happen. I applaud them for letting that happen.

In addition, to show the kindness of the Federal Government even more, if you provide an IEP, an individual education plan, for that student who is waving a gun around—you have to do that—you have to provide that help for this student while he or she is out for 45 days and then, after the 45 days, you have to bring the student back into the classroom again. Now, that is real nice for the Federal Government to get into that kind of micromanaging.

As a teacher who has the responsibility for educating the students and, in this particular case, the safety of the students, we need a better way. I do not want the Federal Government to make that decision. I want the teacher on the spot, the administrators on the spot to get that student out of the classroom and to find out whatever the problem is. If it is a medical problem, fine, then deal with it as a medical problem outside the parameters of the school district. The school district is not a hospital, it is not a social service agency, it is an educational institution, and we have lost sight of that. Everybody in America knows it, the school districts know it, the students know it, in some cases.

I believe honestly that without this amendment we will eventually be forced to revisit this problem. This is not going to resolve the problem despite our best intentions. We are going to be sending the message that the Federal Government is not a help but an impediment to efforts to provide students with a safe learning environment. By sending that message, we will give citizens who want safe schools for their children reason to doubt that the Federal Government considers their concerns worthy of serious attention.

I do not believe we should send that message, Mr. President.

Throughout this debate, we have heard that any successful effort to amend this bill, no matter how worthy, is going to imperil the entire legislation. I ask my colleagues to think about that for a moment. How does it imperil this legislation to say to a local school district, if you have somebody waving a gun around in a classroom, or doing drugs in a classroom, or in other ways disrupting the classroom, how does it imperil this legislation to say that we want to add an amendment on this bill that says that the school district, the teacher, the principal, the enforcement official, the police department, whatever it takes in that local community, should be able to address that problem as they would if any other student were causing it. Deal with the other problems, the problems behind this incident later, but get the child out of the classroom. That is all Senator GORTON and I are asking with this amendment.

It is not unreasonable, Mr. President. Schools should not be forced to adapt their own behavior policies on the basis of IDEA. This is a reasonable amendment. I encourage my colleagues to search their conscience, in spite of the effort to stop all amendments, in spite of the effort to say this will destroy the bill, I plead with my colleagues to support the Gorton amendment because of the reasons I have given.

Bear in mind, we all understand the rules, we understand the constitutional provisions of what we do in the Senate. We all understand that if a bill is defeated, it can be defeated because the President vetoes it, it can be defeated because the Senate or the House defeats it, but in this case, if the Senate passes it with this amendment and the House passes it with this amendment, who knows, the President may sign it with this amendment. We do not know the answer to that. And if he does not sign it, we can override his veto, and if we do not override his veto, we go right back to where Senator JEFFORDS is now. So what have we lost? A little time, that is all.

But I guarantee you, if you talk to those teachers out there in those inner cities and other locations where these kinds of things are happening, it would be very interesting to hear their remarks in terms of how they feel about this.

Let me close by saying, again, I understand and respect what Senator JEFFORDS is trying to do. This is an advancement of current law in the right direction. I applaud that and support that, but I resent the fact that we cannot make an attempt, where there are deficiencies overlooked, where we are denied the opportunity to make the attempt to reform them because we are going to ''undo'' some compromise on the legislation.

Mr. President, I yield the floor and reserve any time I have.

Mr. REED. Will the Senator yield?

Mr. SMITH of New Hampshire. Yes.

Mr. REED. If I may, I would like to comment on the bill in general and the Gorton amendment specifically, if the Senator will yield?

Mr. SMITH of New Hampshire. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes.

Mr. SMITH of New Hampshire. I see no people on my side. I yield the remainder of my time to the Senator from Rhode Island.

Mr. REED. Mr. President, I thank the Senator for his gracious efforts.

I rise today to support the reauthorization of the Individuals with Disabilities Education Act, and also to oppose the proposed Gorton amendment.

This legislation represents remarkable progress to date, building on progress in the last 20 years with respect to IDEA. In 1975, when IDEA was first passed, 1 million children were excluded from the public school system and another 4 million children did not receive appropriate educational services.

Working in a bipartisan manner years ago, Congress passed IDEA, creating a situation in which all children are entitled to a free appropriate public education.

IDEA has made a real difference in the lives of children throughout this country. Over 5 million children from birth through age 21 are now enjoying the benefits of the Individuals With Disabilities Education Act, and it has made a real difference. Indeed, the number of children with disabilities entering college more than tripled during the period between 1978 and 1991. The unemployment rate for those individuals with disabilities in the twenties is half that for the older generation. Simply put, IDEA demonstrates the positive and powerful role that Congress can play and has played. Today's bipartisan and bicameral effort builds on that great success of the last 20 years.

I commend particularly Senator LOTT, Senator HARKIN, Senator KENNEDY, Senator JEFFORDS, Senator FRIST, and Assistant Secretary for Special Education and Rehabilitative Services, Judith Heumann, for all of their efforts in leading this reauthorization process.

In March, I went up to Rhode Island and met with many of the teachers, administrators, parents and families who are deeply involved and deeply concerned about special education. We talked to them, we got their ideas, and I am very pleased to say this legislation incorporates so many of the important ideas that they expressed to us.

For example, this legislation promotes greater parental participation by providing parents with regular reports about the progress of their children. It also includes parents in group placement decisions which is so critical to the success of their child. This legislation strengthens the individual education plan, the IEP, by including children with disabilities in school reform efforts and also ensuring that performance assessments includes all children, including children with disabilities. All of these efforts will strengthen the education that is provided to these young Americans.

In addition, this legislation strengthens and emphasizes early intervention services which are absolutely critical. In my home State of Rhode Island, we screen every child for disabilities and follow through with those children. People up in Rhode Island speak with great conviction and passion about the success of this aspect of the IDEA bill, and we are building on that success today.

This legislation also reduces the paperwork and the litigation that we have seen in the past and strengthening and emphasizing mediation and reconciliation processes rather than going to immediate litigation. Indeed, it also requires that complaints be specified so that we don't get into an endless litigation process. All these things together add, I think, to the sensibility and the streamlining that this legislation represents.

With respect to the amendment before us at the moment, it would undercut, I think, most of the progress we have made to date in this reauthorization. It would essentially undercut all of the specific goals and objectives that we have laid out carefully after considering this legislation. It would also, in a sense, undo so much of what has been done so positively and progressively by all parties coming together to deal with this legislation.

To defer, once again, to local control I think is to invite what took place before IDEA, not because of insensitivity or any maligned intent, but the fact is, quite frankly, that millions of children with disabilities did not receive an appropriate education. It was only with the passage of IDEA in 1975 that we committed ourselves to ensure that every child, including those with disabilities, would have an appropriate education.

This is the commitment we continue today. This is the work of many months by my colleagues who worked so diligently. I hope today we not only will reject this amendment but that we will overwhelmingly reaffirm the work that has been done, pass this bill, move it forward, let the President sign it and let us build on more than two decades of success and, once again, reaffirm our commitment that in this country, every child, regardless of their abilities or disabilities, will have a free appropriate public education.

I thank the Senator and yield back the remainder of my time.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Mr. President, we are coming to the end of the discussion on this amendment. It is my intention to have it set aside. I would like to point out that this is not just JIM JEFFORDS versus the cities and towns of America, as Senator GORTON stated. He indicated that the teachers wouldn't like it, but actually, this bill is backed by the National Parent Network on Disabilities, the AFT, and the NEA. It also has the support of the American Association of School Administrators, the National Association of Developmental Disabilities, the Council of Great City Schools, the National Association of Elementary School Principals, and 32 other organizations representing millions of people. I urge everyone to vote against the Gorton amendment.

I yield back the remainder of my time and I ask unanimous consent that the Gorton amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. SMITH of New Hampshire. Is the pending business now the Smith amendment?

The PRESIDING OFFICER. The Senator has not called up his amendment yet.

AMENDMENT NO. 245

(Purpose: To require a court in making an award under the Individuals with Disabilities Education Act to take into consideration the impact the granting of the award would have on the education of all children of State educational agencies and local educational agencies.)

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. GORTON, proposes an amendment numbered 245.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 156, between lines 8 and 9, insert the following:

''(I) LIMITATION ON AWARDS.—Notwithstanding any other provision of this Act (except as provided in subparagraph (C)), a court in issuing an order in any action filed pursuant to this Act that includes an award shall take into consideration the impact the award would have on the provision of education to all children who are students served by the State educational agency or local educational agency affected by the order.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that with respect to the amendment offered by Senator SMITH, there be 1 hour for debate, equally divided between Senator SMITH and myself. I also ask unanimous consent that no second-degree amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I appreciate the Senator from Vermont working with me on this amendment. I do not intend to use the full 30 minutes on my side. If it helps to yield back some time on both sides to expedite things, I am more than pleased to do that.

This, again, Mr. President, is another opportunity to strengthen this bill. Like the Gorton amendment, it is just a commonsense amendment that simply underlines a commitment to fairness and equity that I believe every Member in this body shares. My amendment would require a court making an award under the Individuals

With Disabilities Education Act to take into consideration the impact the granting of the award would have on the education of all children in that State or locality.

The problem that the Smith amendment addresses is a very real one. Again, talking with school boards, having served on a school board, I can tell you that litigation costs are consuming a lot of resources that would otherwise be dedicated to education services or infrastructure development.

In one instance, a school district was forced to pay $13,000 in attorney's fees as a result of a dispute over less than $1,000. I simply ask my colleagues if that is reasonable.

I ask unanimous consent that Senator GORTON be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, Senator GORTON, in discussing his previous amendment, which did not relate directly to attorney's fees, has provided me a copy with some of the litigation costs in various school districts in his State of Washington. I will not go through them all, but if you added all of the litigation costs up in 1 year, the 1994–95 school year, it would be almost $1 million in litigation costs just on special education, $330,000 in Seattle, alone.

Now, if you add up all of those thousands and thousands of dollars and you end up with a total in excess of $1 million, if you are a teacher or an administrator or a private citizen thinking of your own school district, you might ask ''How many teachers, how many textbooks, how much infrastructure could you provide for $330,000?''

We have an adverse reaction around here when we try to get anything done to knock any attorneys out of a dollar or two. There was a Washington Post story recently quoting lawyers bragging—and I will not cite names here, I do not think that is important—but there was a law firm in the city that got $2.4 million, according to school budget records, just on special education, just on this law. In fact, one person was quoted as saying, ''Winning those cases is like taking candy from a baby.''

I might just say, why is that? Well, I took the time, Mr. President, to talk to my school districts—not all of them, but I wrote to them and got a lot of input back and attended some school board meetings. I attended school board meetings, about one a week for 6 years, when I served on the school board in another life before I came here to Congress. Believe me, I have heard a lot of reasons and a lot of things about what is wrong with this law as well as what is good with it. We know there are good things about it.

The Manchester school district, which has 100,000, roughly, citizens—not 100,000 students—a district of a little over 100,000 people, pays litigation costs on this issue alone of between $110,000 and $125,000 every year. That is the cost of three teachers. This may be justified, but sometimes it is not, is the point I am making.

Using the example I cited in my last speech of the youngster with a gun in the classroom, if somebody determines that youngster must have an individual education plan, and the school district says, ''Now, wait a minute. Hold on. This kid has disciplinary problems. He does not have medical problems. He has disciplinary problems. We want to discipline him. We want to get him out of this classroom.'' But somebody disagrees. Maybe the parents, maybe somebody representing the parents, maybe the Civil Liberties Union—whoever—but somebody disagrees. So sometimes when the school district looks at the ramifications, they think, ''Well, if we go to court and fight this and lose, it could cost us $300,000. If we give in and we cave in and say, 'Well, OK, the kid is waving a gun around, he must have a medical problem somewhere, something is wrong, he is waving a gun around a classroom, we need an IEP,' we might as well cave in because that will cost $100,000, and it is better to pay $100,000 than $300,000.''

That is exactly what happens, Mr. President, over and over again, year after year, district after district, all over America. They simply throw up their hands and look at it simply on the basis of a bottom line. ''If I go to court and I lose, I will owe $300,000 in legal fees. If I go to court and win, maybe I will not owe them. But if I lose I will have to pay, and for the sake of $100,000 IEP, knowing that the legal fees' estimate may be three times that, why, then, would I take the risk?'' That is exactly what happens, Mr. President. I have sat as chairman of the school board and seen it happen and participated in those decisions. They were bottom-line decisions.

Now, let me tell you why this hurts children in those schools. Maybe I am mistaken, but I think we are trying to reform this law because we want to help students get a better education. Now, the question you must ask the question you might want to ask is: Is it fair to provide this kind of education, this kind of alternative, at the expense of other students? If it is going to cost $300,000 to go to court, then I have to think, if I am a school board chairman, well, how about the other kids? What happens to them? Let me tell you what happens: Those dollars go to the lawyers. That is what happens. And we are letting it happen.

I thought the point of a civil rights law was to protect people from discrimination, especially minorities, not to provide minority group members with benefits not available to the rest of us. That is what I thought. Maybe I am somehow mistaken in that regard.

So, all my amendment does, all it does, is it simply requires a court, in making an award under the IDEA legislation, to take into consideration the impact the granting of that award would have on the education of all the children, all the children, in the school district—not just one, all of them.

I might say to you, is it fair to take education away from kids who want it, who need it, who deserve it, who ask for it, for the sake of someone who is a discipline problem? Not someone who has a handicap or someone who has a need. I want to make that clear, because I will be accused otherwise. That is not what we are talking about when we talk about kids who have legitimate needs. We are talking about these outrageous individual education plans that are written, and the outrageous examples of the kind that I gave you, a kid is selling drugs on the school ground, you have a kid waving a gun in the classroom, you have a kid shouting obscenities in the classroom, and instead of worrying about getting the kid out of there and out of that environment which is destroying the educational opportunities of other students, we are worried about what the background is, what the reason is for it. There is a justification for finding out the reason, but get them out of the school classroom where these problems are occurring.

We are not talking about a child with Down's syndrome here or a child who is blind or deaf or who needs some special education to help that child learn. We are not talking about that. I voted for hundreds of thousands of dollars of taxpayer dollars to help those children as a school board member and as a Senator. I am talking about some type of reasonable restriction on outrageous legal fees that come right smack out of the pockets of those good kids, good kids who simply want to learn, those good kids and decent parents who say, ''You know, I am sending my child into school. I know the teachers are imperfect. We are all imperfect. We are human beings. I do not expect them to be perfect. I do not expect the school or the administrator to be perfect or the classroom environment to be perfect, but I am asking they be free from the threat of violence, they be free from the threat of drugs, free from the threat of outrageous outbursts of obscenities and other things that may cause an impact on my child or their child's education.'' That is all parents are asking. What is so unreasonable about that?

Who are we in the Federal Government or the U.S. Senate or the House of Representatives or the White House to tell the school district that they can't correct this? Who are we to do that? If you can find that in the Constitution, Mr. President, somewhere, anywhere, even implied, I will withdraw the amendment. It is not there. It is absolutely not there. We need to do something about it.

There was a principal from a school in New Hampshire who wrote to me saying that because of litigation costs, ''funding of other regular education programs is being seriously jeopardized.'' He describes himself, this principal, as a member of a generation that

sought to extend equal opportunity to all. He concluded, with regret, that as a result of excessive litigation the IDEA has become ''a law gone crazy. The students that are disadvantaged now are the regular education children.''

I include in regular education children those who have a disability, who need help. Let me repeat that: I include in regular education, children in that category, those children who have a special need, who need extra help—not the ones that are causing these problems that are so outrageous in these classrooms.

I wish I could say this was just one mere anecdotal example out of millions and that it was not a big deal, but it is not. A study that was conducted by the Advisory Commission on Intergovernmental Relations shows that the IDEA is the fourth most litigated law in its study of unfunded mandates—unfunded Federal mandates. Is it any wonder that some lawyer from Washington, DC would say ''winning those cases is like taking candy from a baby?'' It is not.

I have talked to the school board members. They throw their hands up in the air. It is costing them money by the hundreds of thousands and millions of dollars, money that could be spent on educating, yes, the truly needy special needs kids, as well as the people in that classroom.

Again, for emphasis, I repeat what I said earlier. Can you imagine being in a classroom, as a teacher or as a student, with that kind of outrageous behavior occurring, and then knowing as a school board member that you have to tolerate it unless you want to break the bank with legal expenses?

So, basically, what this amendment does that I am offering, it simply allows the court to pull back on these court costs, to have the flexibility to say, look, $13,000 for a $1,000 IEP or $350,000 for a $10,000 IEP, those kind of fees are outrageous. They are not going to be tolerated because we are not going to let some lawyer who wants to fatten his wallet do so at the expense of decent children in some school district in Anywhere, USA, from having the opportunities of getting what he or she deserves in that classroom.

That is wrong, Mr. President. That is absolutely wrong to let that happen. Yet, it is happening and we are encouraging it to happen. We are encouraging it to happen because we have some deal struck that no one wants to break and, therefore, we can't offer an amendment. ''Yes, you can offer an amendment, Senator SMITH, but everybody is going to oppose it. If you get five votes, good luck.'' Well, I just ask the American people to look very carefully at the votes, frankly. Those of you out there in the school districts around America, look at who votes on the Gorton amendment and Smith amendment and see whether they are there for you or not, because that is what it amounts to.

I don't care what anybody tells you on the floor of this Senate, it is absolutely not true to say that this bill will be defeated if this amendment passes or the Gorton amendment passes. That is not true, because it can be defeated here and the President could veto it, but we can override the veto. That is the constitutional process.

The need to address the problem of litigation costs seems all the more pressing at a time when some of my colleagues have begun calling for the Federal Government to take over the job of building and maintaining the schools from State and local governments. They want to take it over. Can you imagine that? The U.S. Senate, in this vote, is going to use the power of the Federal Government to prevent you from getting that child waving the gun or using the drugs out of the classroom but that same Federal Government is going to take over the job of maintaining school buildings. Can you imagine that?

Do we really want to do for public schools what we have done for public housing? I think some do. I don't. Perhaps we in Congress would do better to ease the burdens of excessive regulation and litigation so that States and localities can devote more of their resources to repairing or replacing crumbling school buildings.

You know, it might be a good idea—I hadn't thought of it; it just came to mind—when the lawyers get the big fat settlements or legal fees by winning these cases, which they take with great glee—''like taking candy from a baby''—maybe we ought to have an amendment that says they ought to give 90 percent of it back to the school district. Maybe they get an IEP or two for some of these kids that really need it. But that would be wrong. That is in violation of capitalism, I guess, isn't it?

Well, all you have to do, Mr. President, is look and see where all the money goes from the legal community and who they are giving it to. There are a lot of lawyers in here and they do pretty well. So it is tough to beat the lawyers in this body.

I ask my colleagues simply to search your consciences, read the two amendments, the Smith and Gorton amendments, read what they do and ask yourself, is it the end of the world if this passes and this bill takes a few more weeks running through the process of getting changed? That is all we are asking. If the process around here is to strike a deal before we get stuff to the floor, I am going to be the first Senator out on the floor the next time that somebody who votes for this bill says, ''I would like to offer an amendment.'' I am going to say, ''Excuse me, why are you offering an amendment? I thought we had a deal here. Isn't that the way you want to govern—strike the deal before you bring the bill to the floor so nobody can make any amendments?''

This amendment would make this legislation a responsible piece of legislation if we were to pass it. That is all I ask. I am not asking for anything else. I am asking for the Senate to adopt this amendment to strengthen this bill, to take money out of the pockets of lawyers and put it into the educational opportunities of young girls and boys throughout this country. That is all my amendment does. If you want it in the pockets of lawyers, vote against me. If you want it to be spent for the schoolchildren, then vote for me. That is it, pure and simple.

Mr. President, I will reserve the remainder of my time and yield the floor.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Smith amendment. I will not go into all I have said before about why that is necessary. But the House today has completed debate of a version which is identical to the bill before us, and any amendment to it would require us to go to conference. The delay would give time for those who are opposed to the bill to try to scuttle it, as they did last year successfully.

I want to point out several things with respect to the Senator's amendment. First, it is not necessary. Under the bill as written, there is no award for legal fees without the courts saying there should be; it's purely discretionary. The courts, with their discretion, can take into account the effect of the award on the school districts, or whomever else. So there is that ability to try to reduce the awards. It is in there now. The amendment is also not necessary, because mediation is working. Due to changes in the approaches that have been taken, the cost of litigation and the number of court suits that have been brought as a result of appeals has gone way, way, way down. So we are talking about something that used to be a problem but is not a problem anymore.

As I pointed out before in addressing Senator GORTON's amendment, I think he is talking about the State of Washington of old, not the State of Washington of the present. In fact, given the dramatic success with voluntary mediation in Washington State and given the success and cost-benefit advantage associated with voluntary mediation of 38 other States, the bill requires all States to offer voluntary mediation.

So the bill is going to try to help replicate what happened in Washington, which has decreased the number of appeals so substantially—a 96-percent decline in due process hearings held between 1993 and 1996. It is a problem of old. We can forget about it.

As far as the comments about waving the gun and there being no remedy, that is not accurate. If a child's behavior is not connected to a disability, then he or she is treated like any other child except that there can be no cessation of services. So that certainly takes care of that. If the behavior is related to the disability, the child can usually be removed for not more than the amount of time that the school system would remove a child without disabilities but for not more than 45 days. If at the end of 45 days the school

personnel propose to change the child's placement and the parents disagree with the proposal, the child must return to the placement prior to the interim placement except if the school personnel maintain that it is dangerous to do so and make a demonstration to the hearing officer that this is so. And that could go on until there is no risk.

The best way to help the communities is to vote for this bill. It is important to understand that, if we increase IDEA funding—and that is the effort this body and its Republican Members are putting their full weight behind—all that increased funding will not go to States. Rather, it will flow to the local governments. So, if you want to help local governments take care of problems—and sometimes there are problems—this money going directly to them will assist them more than anything else. The States can't pick any of it off. It goes right to the local government. So I just emphasize that, in my mind, we have taken care of the problems. We are, again, in the position of considering an amendment which could be seriously disruptive. If adopted, it will have no impact on solving real problems, but it would raise the possibility of killing the bill.

Let me give you an idea about the lawyer's fees and the history of that and let you know exactly what has to occur before you can get an award. There was a case called Smith versus Robinson in 1984. This was a case that came to the U.S. Supreme Court. They went through it and found out that, actually, there was no ability to award attorney's fees. So we went into the 1986 session and said there ought to be an award for some under certain circumstances, but we should make sure that it is not in any way automatic and is purely at the discretion of the court. Let me read some of the phrases:

In any action or proceeding brought by IDEA, or the parent or child with disability against the school, the court may award reasonable attorney's fees.

''May.'' That is discretionary. They could take into consideration everything Senator SMITH wants them to. There is no limit on the discretion. Also:

Attorney's fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to a parent, and if they had a good deal and didn't accept it, they don't get attorney's fees.

Attorney's fees may not be awarded related to any meeting of the IEP team unless such meeting is convened as a result of administrative proceeding or judicial action or at the discretion of the State or a mediation is conducted prior to the filing of the complaint.

I can go through more. I think you get the drift. It is very hard to get attorney's fees. Therefore, that is really not the problem. Plus the mediation process has reduced almost to zero the number of court appeals—only a hundred all last year. I think we are talking about solving a nonproblem and creating a huge problem with respect to the possibility that this bill might be, as happened last year, scuttled at the last minute.

I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH of New Hampshire. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes. The other side has 22½ minutes.

Mr. SMITH of New Hampshire. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH of New Hampshire. Mr. President, I yield the remainder of my time.

Mr. JEFFORDS. Mr. President, I yield as much time as the Senator from Iowa desires.

Mr. SMITH. Then I will yield the remainder of my time to the Senator from Vermont.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Thank you, Mr. President. I don't intend to take a long period of time. I wanted to respond to my friend from New Hampshire. Let me, first of all, recap a little history on the provisions in the bill which provide for reasonable attorney's fees—again, keeping in mind you have to prevail in this case.

The provision here, what is in the bill, is nothing new. This has been in the bill for a long time. In fact, I did a little bit of research and found out that this first came under S. 415, the Handicapped Children's Protection Act of 1986. And the person who was in charge of this provision was none other than our own Senator ORRIN HATCH of Utah. I just thought I would read into the RECORD, again, what he said at that time on July 17, 1986.

He says that the agreement we are now considering is a compromise which I feel accomplishes two major objectives.

First, it provides the reward of reasonable attorneys' fees to prevailing parents in Education of Handicapped Act proceedings.

Second, it includes the application provisions from some court cases, which he mentioned, which I don't have to go through.

In order to protect against excessive reimbursements. Senator HATCH goes on to say, ''Let me again emphasis that the conference agreement developed was a compromise. Without the passage of this carefully crafted document, handicapped children and their parents cannot be fully protected since they have no recourse under current law, if their rights are violated.''

Again, that law now provides that a court may award reasonable attorneys' fees as part of the cost of the parents of a child with a disability who is the prevailing party in a due process proceeding, or court action.

In other words, if a parent prevails at an administrative hearing, they are entitled to fees. What fees? Reasonable? They must be based on rates prevailing in the community for that time, and quality of services performed. Unlike other civil rights statutes, no bonus or multiplier may be used to increase the amount of fee awards. No award of fees may be made for services performed subsequent to the time a written statement offer is made to the parents, if, among other things, the relief finally obtained by the parent is not more favorable to the parents than the offer of settlement.

I think this is really a critical point. Again, I apologize to the Senator from New Hampshire. I do not know if he covered this or not.

Let's say they have a written statement of offer to settle. The parents decide not to do that, and they go on. From that point on, if the final judgment is not more favorable than the written statement offer, they get nothing beyond that point. They go at their own peril.

So, again, how can that be unreasonable attorneys' fees?

And the court must reduce the amount of the fee award whenever the court finds the following:

First, the parent unreasonably protracted the final resolution;

Second, the amount of fees unreasonably exceeds the hourly rate prevailing in the community;

Third, the time spent on the legal services furnished were excessive considering the failure of the action or proceeding.

So this is all in current law—adequate protections to make sure that there are not unreasonable attorney fees in these cases.

So really this amendment offered by the Senator from New Hampshire really undermines the rationale for having attorney's fees.

Again, let's keep in mind one other very important fact that I think keeps being ignored here when we are talking about IDEA. The Individuals With Disabilities Education Act is a civil rights statute. It talks about civil rights for kids with disabilities. I already went through that earlier today talking about not discriminating on the basis of race, sex, creed, or national origin. Well, the courts have now said disability too. You can't discriminate on that basis.

I have here a copy of all of the statutes under which attorneys' fees may be awarded by Federal courts and agencies in other civil rights cases. The Civil Rights Act of 1964; Public Facilities; Equal Opportunities; Fair Housing Act; title 8; Employment Act of 1967; Fair Labor Standards; Voting Rights Act of 1965; the Equal Credit Opportunity Act; the Age Discrimination Act; the Rehab Act of 1973. And all of

those we get reasonable attorneys' fees.

So now are we going to say, ''But, for the civil rights of kids with disabilities and their parents, no, that is different''? Why don't we carve out the Civil Rights Act of 1964, or public accommodations on the basis of race or color? Why don't we say, ''Well, if you have a civil rights case and it is based on race, you don't get attorneys' fees, if you prevail?'' Why not? The Senator from New Hampshire says we will carve it out for kids with disabilities. Why don't we carve it out on the basis of race?

How about religion? What if you got a complaint based upon violations of civil rights based on religion, and you prevail? You say you don't get attorneys' fees? No. We say in the law you get attorneys' fees, if you prevail.

Equal employment I mentioned.

Title IX dealing with discrimination based upon sex, we say, ''Oh. Well, in this case, however, if you are female, your civil rights have been violated under title IX, and you bring action. No. We are not going to give you attorney's fees.''

Why don't we have those amendments offered around here? It is only the kid with disabilities. It doesn't make any sense at all.

So let's keep all of our civil rights laws the same. If your civil right is violated on the basis of race, I submit to you it is no more onerous than if your civil rights is violated based upon disabilities. And we shouldn't discriminate under the Civil Rights Act, and we shouldn't here either.

So I oppose the amendment because it undermines the rationale. It subjects the parents of children to a double standard compared to other civil rights bills. We have to keep these things the same.

Last, the data doesn't support the assertions that the fee is a result of proliferation of litigation. I looked up New Hampshire. For 1 year—1995–1996—New Hampshire had 10 complaints that went through due process. Do you know how many become court cases? Zero. This is an amendment looking for a problem.

There is no problem out there. Vermont has zero. Arkansas has zero.

Again, it is just not a big problem out there at all.

In my State—I might as well talk about Iowa—we had four due process hearings, and we had three cases go to court.

Out of the thousands—this is what is interesting. In California, one of the largest States, we had 1,289 requests for due process hearings. Out of that, 1,114 were disposed in mediation. We had 57 hearing decisions rendered out of 1,289 requests. That is just not much of a problem. That is out of 550,000 students in California receiving special education. Out of 550,000 students, only 57 had a hearing decision rendered.

So, again, the number of due process hearings per year averages about one-hundredth of 1 percent of the number of children served. The law specifically provides for reasonable attorney's fees, and I just outlined what that means when Senator HATCH put this in the bill 11 years ago.

And, third, we would not—no one here, I would think—would want to discriminate on the basis of civil rights that in one civil rights case you get attorneys' fees but in another civil rights case you don't. No. We don't want any of that around here. For those reasons, while I have every respect for the Senator from New Hampshire—and he is a good friend of mine—this is just a bad idea, quite frankly. And I hope Senators will reject this approach of trying to divide out kids with disabilities and their families away from everybody else under the purview of civil rights laws.

Mr. President, I yield the floor.

Mr. JEFFORDS. Right now I would just like to say a couple of things. I think it is very clear that both of these amendments are not necessary—in fact, would create problems rather than solve them, and that what we have is a bill which, if we are able to pass, will save money. That has not been mentioned, but the estimates are it will save up to $4 billion a year in reduced litigation and all of the other problems that are inherent in the process as well as the fact that both amendments are trying to solve problems that are no longer there. In fact, the Gorton amendment will create a monstrous problem and solve none.

Mrs. MURRAY. Mr. President, I rise today to send a message to parents and educators across this nation. No matter if they are the parents of a disabled child, or the superintendent of a rural or urban school system, each one of them will have something to be pleased about in the 1997 reauthorization of IDEA. As with most legislation, no one is completely happy with every paragraph and clause. And yet, with issues so complex and needs so great, I find it remarkable that we have before us such a potentially successful bill.

It is testament to the work we have done over the past 2 months that we have brought the discussions over the past 20 years of IDEA to a productive next step. I have always believed that we do our best work when we agree to sit down, put differences aside, and work toward the common good, using common sense. This is exactly what the American public expects us to do. The negotiations over the IDEA bill represent this philosophy and put it into action.

I want to congratulate Senators HARKIN, KENNEDY, LOTT, JEFFORDS, and FRIST for all the great work they and others have done. I also want to thank the education community for working together through differences, to get to a bill that can pass and will work for students in regular education and special education in schools and communities across the land.

The Individuals With Disabilities in Education Act is 20 years old this year. It has represented a major change in the way our society views students with disabilities—and has helped us take concrete, measurable steps toward improving the lives and education of all American students.

In this process this year, it is my view that we have preserved the basic civil rights protections that were part of IDEA when it was passed, and that we have granted important flexibility to local schools and parents to work together in the best interest of children.

One thing evident from the process of writing this bill—we do a great job here in the Senate in cranking out pieces of legislation, but we must do more to monitor implementation of these laws. Practices in the field of special education have improved dramatically over 20 years; yet our methods of disseminating information—even in the information age—have not kept pace. Much of the disagreement in the classrooms and communities of America between special education folks and regular education folks is because we have let the ball drop on implementation of IDEA. The sad part is that it didn't have to happen—the information was there.

Information about how much more effective it is to use mediation as an option to legal action. Information about what strategies of communication, teaching, and problem-solving can be used to prevent situations from escalating to the point where they need mediation. In places where people have good information, and exercise leadership, you just see fewer problems.

It has been obvious for some time to educators and parents alike that—as with other Federal laws—there is a wide variety in what special education means from community to community. Some of this variety is as it should be. Decisions about how educational services are delivered are best made with local flexibility. But basic protections afforded by civil rights law, and effective techniques that improve student learning, should not be subject to the whims of geography.

The IDEA reauthorization legislation recognizes this, and makes several changes that will benefit all students and members of their community.

First, the new law codifies court decisions, regulations, and other interpretive documents so that the law itself better reflects its current uses.

Second, the law improves educator training, methods for sharing information, and improves the process for developing and using the individualized education plan—the key to disabled students getting the services and challenges they need.

Third, practices to achieve safe and well-disciplined schools have been improved or more clearly articulated in the bill—so it will be clear that students whose behavior causes disturbance in the classroom will get help if that behavior is part of their disability, and if the behavior is determined

not to be part of their disability, they are subject to appropriate disciplinary action.

This bill represents improved results for all students in our schools. It ties a student's individualized education plan to the educational goals and assessments for nondisabled students—so we set high expectations and provide clear opportunities for achievement. The bill includes parents in decisions regarding placement, because we recognize that a child's needs are uniquely the concern of her or his parents.

This bill will serve as a vehicle to increase funding for IDEA, so the Federal Government can meet its obligations to disabled students. The bill holds outside agencies responsible for their share of the health or other costs of serving disabled students, so we can clarify that local schools do not bear all responsibility for these costs.

People from different perspectives will find things to praise in this bill. Perhaps the best thing is that we will reauthorize IDEA this year, so people can predict what the future will hold, and have access to more and better information. The tension in this country between regular education and special education has boiled for too long. This IDEA reauthorization bill will not pit people against one another; it will bring us together in service to all students.

IDEA

Mr. WELLSTONE. Mr. President, at a time when communities are demanding that schools provide quality education; at a time when many schools talk of scarce resources; at a time when parents ask that their children's schools be safe and orderly places to learn—it is easier sometimes to find a scapegoat than to address the real problems. I am greatly concerned that the scapegoat has become children with disabilities. Even though they have only had the right to an education for 22 years—I have heard over and over again that it is those children who gobble up scarce resources and who prevent other children from receiving a decent education.

But I have heard from parents whose children have disabilities, I have met these children. They just want to learn. And the civil rights statute that we passed 22 years ago says that to not educate them is to illegally discriminate against them. But still, these students and parents are afraid that schools will retreat to segregation and separate schooling. We must listen to these voices of pleading and concern.

There are 100,000 children in Minnesota that are protected by this statute, and up to 200,000 parents. IDEA strives to keep these students in school in as normal an environment as possible because integration gives them the chance they deserve. What a noble goal. What achievements we have seen over the years since the law was written. The first generation of IDEA educated children are just now coming into their own in this country and I believe that we all benefit immeasurably from their developed talents and abilities. While there have been problems with IDEA, it is my belief that the problems stem not from the law itself, but from the enforcement and implementation of this law.

I know the bill we have before us represents a delicate compromise—and that any successful amendment has the potential to make the deal crumble. I have not come to the floor this morning seeking to change this bill. But I cannot vote for this bill without pointing out the trouble spots I see. The disability community has not had much time to fully analyze this bill. This is a fact that I mentioned in my letter last Monday to Chairman JEFFORDS and Senator KENNEDY, while asking them to postpone this markup.

A quick review of this bill shows that, at least among parents and students, the discipline section has raised the most red flags. There is a concern that a manifestation determination review will be a very difficult process for parents, particularly low-income parents who may not have access to psychologists and other professionals. Advocates are particularly worried about the courts being replaced by an administrative hearing officer because they may be appointed by an LEA, there are different rules of evidence and there is no assurance that they will be attorneys or appropriately qualified. Another concern raised by parents is how substantially likely to result in injury to self or others will be interpreted. Children with autism, Tourette's syndrome, ADHD or ADD and severe emotional disturbances are especially at risk.

And last we need to ask where children will be placed—what alternative placements are available? If the primary alternative is home-bound placement we will see families facing incredible stress and financial hardships. If the primary alternative is a segregated setting we run the risk of returning to a system that offered minimal education to children in isolated, warehouse-like settings.

That said, I would like to congratulate the leadership team that assembled this bill in marathon sessions for the last 8 weeks. On February 20, 1997 a bipartisan, bicameral working group was established to develop a compromise bill. This working group included a representative from the Department of Education—Judy Heumann, Assistant Secretary for Special Education and Rehabilitative Services—and the following offices: Harkin, Kennedy, Dodd, Jeffords, Coats, Frist, Martinez, Scott, Miller, Goodling, Riggs, and Castle. The facilitator of the group was David Hoppe, the majority leader's chief of staff. A member of my staff was intimately involved in this process, and by his and all accounts this was an impressive display of bipartisan negotiation.

The first work product of the group was a statement of principles. The major goal of the working group was to review, strengthen, and improve IDEA to better educate children with disabilities, and enable them to receive a quality education. With this goal in mind, the working group agreed to start with current law and build on the actions, experiences, information, and research gathered over the life of the law, particularly over the past 3 years. The group met for 7 weeks, often for 12 hours a day, to reach an agreement that all could support.

I believe that the bill improves current law in several ways. The bill includes significant increases for the IDEA preschool program and significant increases for the early intervention program under part H.

The final agreement significantly improves and strengthens the Individualized Education Plan [IEP] by, among other things, relating a child's education to what children without disabilities are receiving and providing report cards just like nondisabled students receive. Of great concern to my home State of Minnesota, the bill retains short-term objectives which are planned goals in the education of children with disabilities that parents consider a crucial device for ensuring success and accountability. The bill also specifies that regular teachers will be part of the IEP team, where appropriate, and the report language encourages the participation of school health professionals where appropriate.

The new bill requires parents to be included in the group making placement decisions about their child, as opposed to current law, which in some States allows another group other than the IEP team to make placement decisions.

The new bill ensures that States and local school districts include children with disabilities in their performance goals, indicators, and general assessments. The bill ensures parental consent for triennial reevaluations—not just initial evaluations as under current law—and ensures that evaluations are relevant to the child's instructional needs.

The bill includes improvements in the early intervention program, including clarification that infants and toddlers should receive services in natural environments, such as their homes, where appropriate.

IDEA funding will now cover support services related to a student's disability. For example, the final agreement now lists orientation and mobility services for vision-impaired children as a related service—currently required by interpretation—and includes report language clarifying that children with disabilities should receive travel training—including how to use public transportation where it is deemed appropriate as part of their IEP.

The bill requires States to monitor school districts to determine whether they are disproportionately segregating minority children in certain placements and to determine whether there

is a disproportionate number of long-term suspensions and expulsions of children with disabilities.

The bill gives the Secretary and State educational agencies [SEA's] greater power to implement the law by providing authority to withhold all or some funds when schools violate IDEA. Currently, the Secretary is required to withhold all funds if there is a violation; this punishment was viewed as too strict and never applied.

The bill contains provisions to ensure that increases in Federal appropriations are not offset by State decreases in spending. The State maintenance of effort provisions give reasonable authority to the Secretary of Education to establish criteria for exceptions if necessary.

The bill codifies local maintenance of effort provisions from regulations and includes reasonable additional exemptions for when a locality need not maintain financial efforts for special education—for example when a teacher at the high end of the pay scale retires and is replaced by a recent graduate.

The bill reduces paperwork. State and local applications need be submitted only once and thereafter they need to submit only amendments necessitated by compliance problems or changes in the law.

Importantly, when it comes to discipline, the bill provides for no cessation of services for IDEA students, no separate IDEA provision on the treatment of disruptive children, and no unilateral authority to determine who is dangerous and remove them.

These improvements in the IDEA law do make a difference and I'm pleased that they were adopted. But the drawbacks I mentioned earlier hamper my enthusiasm for the bill. While I will vote for the bill today, I have chosen not to cosponsor this bill. I hope that Members will continue to listen to the voices of parents, who are faced with the daily task of raising and educating their children. They know firsthand how IDEA is implemented at the local level and thus we must listen to—and address—the concerns that they raise. Let us all remember who this bill is for, and strive to make it work for them.

Ms. MIKULSKI. Mr. President, I am pleased to join with my colleagues in cosponsoring this important legislation, S. 717, to reauthorize the Individuals With Disabilities Education Act [IDEA].

S. 717 is the result of a bipartisan effort, which included parents, special interest groups, and educators. My colleagues in both the House and Senate worked hard in crafting this legislation.

I believe that this bill will strengthen the current law. IDEA is a civil rights statute. It guarantees that every child with a disability has the right to a free appropriate public education. Public education is one of the core values of our country.

Before the enactment of IDEA in 1975, children with disabilities had little opportunity to receive a public education. Over 20 years later, IDEA has been successful in providing opportunity to children with disabilities.

S. 717 retains the principles outlined in the current law. There are five principles that IDEA encompasses: First, educational planning for a child with a disability should be done on an individual basis; second, parents of a child with a disability should participate in educational planning for their child; third, decisions about a child's eligibility and education should be based on objective and accurate information; fourth, if appropriate for a child with a disability, he or she should be educated in general education with necessary services and supports; and fifth, parents and educators should have means of resolving differences about a child's eligibility, IEP, educational placement, or other aspects of the provision of a free appropriate public education to the child.

Under current law infants and toddlers have the right to receive early intervention services and children with disabilities are placed alongside children without disabilities. Children with disabilities deserve no less than fair treatment.

Over 5 million special education students are served under IDEA. Decades of research have shown that educating children with disabilities is successful by having high expectations of special education students; strengthening the role of parents in the education of their child; coordinating State- and district-wide assessments; providing an education in the least restrictive environment; and supporting professional development for teachers who work with special education students.

I am concerned, however, about the disproportionate number of minority students who are identified as special education students. I support the goal of this legislation to provide greater efforts to prevent the problems associated with mislabeling and the high dropout rates among minority children with disabilities.

My State of Maryland will receive approximately $61 million this year to provide support services to over 100,000 students with disabilities in local school systems. I believe this legislation will help support my State's efforts to educate disabled children.

I support Federal funding for implementation of IDEA. I believe that funds should keep pace with student enrollment. This legislation maintains part of the formula in current law, which provides part B funds based on the number of children with disabilities served. Once a trigger of $4.9 billion is reached, which amounts to approximately $850 per child, a new formula based on census, 85 percent, and poverty, 15 percent, will apply to any new funds in excess of the appropriation for the previous year.

Although I have some concerns about how States will be able to implement and handle the additional administrative burdens under the new formula, I believe that this approach goes in the right direction.

S. 717 focuses on the crucial areas of increasing funding for special education, teacher training, and early intervention for children with disabilities.

This legislation reaffirms our country's commitment to educating disabled children. I urge my colleagues to support this legislation.

Mr. DODD. Mr. President, I rise today in strong support of the legislation before us today to reauthorize the Individuals With Disabilities Education Act. It is a strong, balanced bill. One that I am a proud cosponsor of and one that I believe we should all be proud to support.

Getting to this point has not been easy and I would like to thank our majority leader, Senator LOTT, Senator JEFFORDS, Senator KENNEDY, Senator HARKIN, and others for all of the time they have invested in putting together this strong and balanced bill and for assigning it such a high priority for consideration by the full Senate.

There has been a great deal of debate about this bill in the last several years. But one thing is very clear. In its over 20 years, IDEA has made an incredible difference to millions of American children, their families, and society as a whole.

Before the passage of this landmark legislation, children with disabilities were frequently excluded from schools, and some had absolutely no opportunity for education at all. Expectations for these children were low. Not only was great potential undervalued and lost, but also we lost as taxpayers who often picked up the tab for a lifetime of support. State and communities were struggling with increasing litigation and state court rulings requiring them to serve all children in the schools.

IDEA brought us all together—the Federal Government, States, local communities, schools, parents and students—behind a firm commitment, a promise to meet the educational needs of children with disabilities.

Since that time, we have made huge improvements in affording children with disabilities the same opportunities open to other students. Today, more than half of all students with disabilities go onto college and 57 percent of youth with disabilities are competitively employed within 5 years of leaving school.

These students go on to good jobs in every sector of our economy. Not only are they workers, they are taxpayers.

But the impact of IDEA is broader; it works for all students. Nondisabled students live, work, and learn alongside all the members of their community. Those are skills that over the long run make our whole society stronger.

Unfortunately, over the last several years, concerns have been raised about IDEA—concerns about cost of services,

discipline, the low Federal contribution, litigation and inclusion. There is no question, it has been a difficult few years. But we have something to show for all the debates and questions: this bill.

One thing has not changed in this bill—children with disabilities remain at its core. But in this reauthorization, we have improved IDEA to ensure that the law does not stand in the way of meeting children's needs.

Administrative requirements are clarified and streamlined. Discipline procedures, which have been the focus of so much attention, are modified to provided school officials with additional tools to ensure the safety of all children. Mediation systems to resolve disputes about the placements of children are required in each State. We also clarified that attorney's fees are not allowed during the development of the Individual Education Plan or in pre-complaint mediation. In addition, parents must provide school districts with more detailed information on their concerns to avoid protracted legal battles.

This bill also better defines the role of other partners in the effort to meet these special needs. Regular classroom teachers are clearly defined as part of the students' IEP team. The parents' role is strengthened or clarified. In addition, states have new authority to collect from noneducational agencies for noneducational services, such as speech therapy. The IDEA bill before us also provides new enforcement tools for the Department of Education to ensure that this law is properly implemented and enforced.

Beyond the larger issues, there were several issues of deep importance to me that I am pleased to see in this final bill. Language is included reaffirming the importance of braille instruction to students with visual impairments. The bill also reauthorizes a program providing support for an unique and wonderful effort, the National Theater of the Deaf. The Theater, which is based in Chester, CT, has traveled across the country and world inspiring and entertaining hearing and nonhearing audiences.

Mr. President, fundamentally, this is a good bill—a strong bill that will guarantee us the full potential of all of our children. I am hopeful that my colleagues will join me in strong support of this effort.

SECTION 685 COORDINATED TECHNICAL ASSISTANCE DISSEMINATION—NATIONAL CLEARINGHOUSES

Mr. BYRD. Under section 685(d) National Information Dissemination the first five authorized activities listed have traditionally been performed utilizing the services of the national clearinghouses.

The national clearinghouses, which have been in existence for over 25 years, have developed very effective, specialized and targeted lines of communications to State and local entities serving this population of special needs as well as to individual families. Representatives in my own State of West Virginia have communicated to me that they want to continue to be able to be serviced by these clearinghouses with whom they have developed longstanding and trusting relationships.

Does the bill continue to authorize all the activities currently carried out by the national clearinghouses?

Mr. HARKIN. Yes. The bill authorizes all the current activities and allows the Secretary to support national clearinghouses.

Mr. BYRD. I note in section 685 that the statutory language states—and I will paraphrase—that the Secretary should provide these authorized services utilizing ''mechanisms as institutes which include regional resource centers, clearinghouses, and programs that support State and local entities.''

I want to make sure that this language, even though somewhat general would allow the Secretary to utilize a Federal resource center, as well as regional centers. The Federal center provides a longstanding, vital, and supporting role in keeping regional centers supplied with and connected to the latest technical information and research development within this specialized field, in addition, the Federal resource center has traditionally coordinated some of the activities of the regional centers.

Does S. 717 allow the Secretary to utilize a Federal resource center in this role?

Mr. HARKIN. The bill allows the Secretary flexibility in the mechanisms used to provide State and local entities the technical assistance they need to improve results for children, youth, infants, and toddlers with disabilities. A Federal resource center is one mechanism the Secretary could use to carry out his responsibilities under this section.

TREATMENT OF PERSONS WITH DISABILITIES IN ADULT PRISONS

Mrs. BOXER. Mr. President, I would like to enter into a colloquy with Senators HARKIN and JEFFORDS regarding the treatment of those with disabilities who are convicted as adults and incarcerated in adult prisons.

Mr. HARKIN. I would be pleased to enter into a colloquy with my colleague, Senator BOXER.

Mrs. BOXER. As my colleagues are aware, the Department of Education has determined that the requirement that States provide eligible students with a free, appropriate public education extends to people under age 21 convicted of felonies as adults and incarcerated in adult prisons. Under current law, if a State fails to provide special education services to eligible prisoners, that State faces the loss of all Federal special education funding. I believe strongly that this mandate is wrong. I introduced legislation last week, S. 702, which would amend IDEA to exempt people convicted as adults and incarcerated in adult prisons.

This issue is particularly important to the State of California. My State does not provide special education services in adult prisons, and as a result, faces the loss of over $300 million in Federal special education assistance. It seems unconscionable to me that the needs of approximately 600,000 California special needs children could be jeopardized because my State does not provide special education services to an estimated 1,500 prisoners.

It is my understanding that this bill makes several significant amendments to these provisions and dramatically changes the scope of sanctions that can be imposed on States for failing to provide special education services to those incarcerated in adult prisons. Would the Senator elaborate on these changes?

Mr. HARKIN. Under the legislation, States are authorized to transfer the responsibility for educating juveniles with disabilities convicted as adults and incarcerated in adult prisons from State and local education agencies to other agencies deemed appropriate by the Governor, such as the State Department of Corrections.

Mrs. BOXER. What are the consequences of the transfer of authority in terms of the ability of the Secretary to withhold IDEA funds allotted to the State?

Mr. HARKIN. If a State makes such a transfer and if the Secretary finds that the public agency is in noncompliance, the Secretary must limit any withholding action to that agency. Furthermore, any reduction or withholding of payments must be proportionate to the number of disabled children in adult prisons under the supervision of that agency compared to the number served by local school districts. For example, if 1 percent of the disabled students were in adult prisons, the Secretary could only withhold 1 percent of the funds.

Mrs. BOXER. In the State of California, approximately one-fourth of 1 percent of all people eligible for special education are convicted of felonies as adults and incarcerated in adult prisons.

It is my understanding that under this bill, if California does not provide special education services in prisons it stands to lose only one-fourth of 1 percent of its allotted share. California would no longer face the possible loss of 100 percent of its allotted special education funds. I would ask the Senator from Iowa, is my understanding correct?

Mr. HARKIN. The Senator is correct that any withholding of Federal funds will be limited to the proportional share attributable to disabled students in adult prisons. Other funds would not be withheld.

Mrs. BOXER. I would ask the distinguished chairman of the committee, Mr. JEFFORDS, if he agrees that under this bill, States do not face the total loss of Federal special education funds for failing to provide special education services to those convicted as adults and incarcerated in adult prisons.

Mr. JEFFORDS. I do agree.

Mrs. BOXER. I am particularly troubled that under current law, States are required to develop an IEP for eligible students even if they have been sentenced to life without the possibility of parole or even sentenced to death. Would the Senator from Iowa comment on the authority to modify an IEP for such incarcerated individuals?

Mr. HARKIN. Public agencies may modify an IEP for bona fide security or compelling penological reasons. For example, the public agency would not be required to develop an IEP for a person convicted as an adult and incarcerated in an adult prison who is serving a life sentence without the possibility of parole or is sentenced to death.

This exception applies to those inmates for whom special education will have no rehabilitative function for life after prison. Our aim in assuring that prisoners receive special education is to make them better able to cope after prison, resulting in a safer environment for all of us. This goal does not apply for those who will not return to society.

In addition, the provisions requiring participation of students with disabilities in statewide assessments will not apply. Further, the transition services requirements will not apply to students whose eligibility will terminate before their release from prison.

Finally, the obligation to make a free appropriate public education available to all disabled children does not apply with respect to children and 18 to 21 to the extent that State law does not require that special education and related services under this part be provided to children with disability, who, in the education placement prior to their incarceration in an adult correction facilities, were not identified as being a student with a disability, or did not have an IEP.

Mrs. BOXER. Does the legislation modify in any way the responsibilities of adult prisons to prisoners with disabilities under section 504 of the Rehabilitation Act of 1973 or the Americans With Disabilities Act?

Mr. HARKIN. No, these laws still apply.

Mrs. BOXER. Does the bill make any changes to current law with respect to disabled students incarcerated in juvenile facilities?

Mr. HARKIN. No.

Mrs. BOXER. I thank the Senator for entering into this colloquy with me.

Mr. HARKIN. I thank the Senator for raising these important issues.

Mr. JEFFORDS. Mr. President, I would make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Reserving the right to object, I would like to just get us out of the situation we are in and then be happy to turn it over to morning business, if that is all right with the Senator.

Mr. WELLSTONE. I am sorry. Yes, of course.

Mr. JEFFORDS. I yield back the remainder of my time.

MORNING BUSINESS

Mr. JEFFORDS. I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I yield the floor.

RELEASE WEI JINGSHENG

Mr. WELLSTONE. Mr. President, I rise today to ask the Chinese Government that the Chinese Government immediately release Wei Jingsheng, an extraordinary man who tells truth to power, authoritarian and arbitrary power. I meant to bring his book to the floor. It is being released today, May 13.

Mr. President, the publication date of this book is today. The title of the book is ''Courage To Stand Alone.'' I have very limited time, but I just want to say on the floor of the Senate, because I really believe there ought to be a focus on Wei Jingsheng, that this is a man of tremendous courage. I have had a chance to skim-read the book. I am going to read it word for word.

I know that Wei Jingsheng was in prison from 1979, I believe, until 1993. Then he was released, and then again he spoke out, as anyone should do, about the importance of freedom and democracy, and again he finds himself in prison.

Mr. President, I hope that my colleagues will all help me in calling for his release. I know Senator HELMS has signed this letter. So has Senator KENNEDY. I am very pleased to work with both of those Senators, and, in addition, Senator MOYNIHAN has signed this letter as well. We are going to add more and more signatures. We are talking about a man who is in very poor health. I just want to quote from Wei's outline of ''My Defense'' which was delivered at his trial on December 13, 1995.

> To sum up, the basic error of the indictment . . . is that it confounds the actions of defending human rights and promoting democracy and reform with ''conspiracy to subvert the government.'' Therefore, anything that can be linked to the ''Democracy Movement'' or ''human rights'' is an act of conspiracy and subversion. . . . A government that can be subverted by a movement of human rights and democracy can only be a government with a contradictory and opposite nature, a government that does not respect human rights or promote democracy, a government of ''feudal, fascist dictatorship.'' . . . According to our Constitution and laws, the people are the owner of this nation and the government is merely an agent of the people. The government must respect the sovereignty of the people, namely the individual freedoms and political rights of each citizen, including the right of people to know, the right to criticize and supervise the government, even to replace the government. If the government abolishes or suppresses such democratic rights, then it becomes an illegal government and loses its legitimacy, which is based on the Chinese Constitution. Therefore, if the general charges brought by the indictment against the human and democracy movement are valid, then the government it represents is not the legal Chinese Government and the charges it brings are illegal.

Mr. President, these are words that might have been uttered by Thomas Jefferson. I again want to just rise in the Senate today and call on all of my colleagues to stand up for Wei Jingsheng, this extraordinary man. He has now been sentenced to 14 years in prison under austere conditions that threaten his life. Today is the publication of the book, ''Courage To Stand Alone.'' This is a collection of Wei's letters to Chinese leaders, prison officials, and to his family.

He is a remarkable man, as I have said before. This is an extremely important work. He is eloquent. If you think about the conditions under which he has written these letters, it makes this all the more remarkable.

It is not only urgent that the Chinese Government release Wei, but also that it provide him with the medical care that he desperately needs but has been denied. He has a heart disease that threatens his life, severe hypertension, and a serious back ailment that renders him unable to hold his head erect. The Chinese Government ought to release this courageous man. He is a prisoner of conscience.

Today is the publication of a remarkable book, ''Courage to Stand Alone.'' Wei Jingsheng is a man who represents the very best of the tradition of our country. He is a man who has spoken up for human rights and democracy and has paid a terrible price for it. I believe it is important for all of us, regardless of political party, all of us in our country to speak up for prisoners of conscience. In this particular case, I take the Senate floor to call on the Chinese Government to release Wei Jingsheng from prison, to release him from prison today and to provide him with the medical care that he needs.

Mr. President, again, I hope my colleagues will join me in this effort. I hope my colleagues will have a chance to read this remarkable work, ''Courage To Stand Alone.'' I hope it becomes a best seller in the United States of America.

In the 30 seconds I have left, let me just say, personally I do not know how people find the courage. If I lived in such a country and I thought that by speaking up I could wind up in prison, or even worse, that my children could be rounded up and that they could end up being tortured or they could end up

being in prison, which so often happens in these countries headed by repressive governments, I do not think I could find the courage to speak up.

I think it is time all of us in the U.S. Congress speak up for men and women like Wei Jingsheng who have had the courage to stand alone. I think it is extremely important that we do everything we can to call on the Chinese Government and to make it crystal clear to the Chinese Government that they ought to release this courageous man from prison, and other prisoners of conscience as well. If they do not do that, then I think all of us ought to look at trade relations and other relations with China and other countries that violate the basic human rights of their citizens. We need to exert leadership and we need to make a difference.

I yield the floor.

FREEDOM FOR CHINESE DISSIDENT WEI JINGSHENG

Mr. KOHL. Mr. President, I rise today to call for justice for Wei Jingsheng. Mr. Wei is a Chinese citizen who has devoted his life to the cause of democracy and tolerance in the People's Republic of China. In exchange for his selfless effort, Mr. Wei has spent almost 20 years in prison. We must, as a Senate and as a country, call upon Chinese leaders to recognize Mr. Wei's genuine love of his country, to respect his right to dissent, and to set him free to live his life in peace.

I have chosen to make this statement today because today we celebrate the publication of Mr. Wei's book, ''The Courage to Stand Alone: Letters from Prison and Other Writings.'' In these unadorned yet powerful reflections, Mr. Wei provides insight into the tortures he has suffered in prisons and labor camps, as well as the passion and commitment which have maintained his fighting spirit. His straightforward missives on the obvious need for democracy remind us all of our fundamental civic values.

Wei Jingsheng is a hero. With a background as an electrician, and with the weight of the Communist leadership against him, he became what the New York Times called the strongest voice of China's democracy movement. It is with awe and sadness that I note Mr. Wei's ability to persevere these many years despite his and other Chinese dissidents' virtual invisibility on the international scene.

We can not allow Mr. Wei to be invisible. As Americans we have always supported the cause of democracy and tolerance. In our own country we are lucky. Democracy as law and tolerance, though we must always be vigilant for transgressions against it, is an integral part of our social fabric. In other parts of the world, including the People's Republic of China, democracy and tolerance remain elusive. Mr. Wei is a hero because he fights against the tide. The leaders of China will be heroes when they realize that men and women like Wei Jingsheng can strengthen and enrich their country—if only they are set free.

CALLING FOR THE RELEASE OF WEI JINGSHENG

Mr. ASHCROFT. Mr. President, I join with other Senators today in calling for the immediate release of Chinese dissident Wei Jingsheng. Wei Jingsheng exemplifies China's best aspirations for democracy, and his imprisonment exemplifies the worst of the Communist cadre that stands in the way of freedom for a nation of over one billion people. Wei's imprisonment is only one story in the broader tragedy of brutal political repression that has silenced all voices of dissent in China. In a world that is increasingly open to the benefits of freedom and the potential of free markets, the great hope is that the growth of capitalism in China will undermine Beijing's tyranny. The growth of free markets alone, however, will never replace individual acts of courage and conviction by people who defy China's Communist leadership. People willing to spend their lives for the freedom of their countrymen are mankind's true heroes.

Mr. President, Wei Jingsheng was first imprisoned in 1979 after criticizing the Government's suppression of the Democracy Wall movement in China. Since that time, he has spent all but 6 months of the last 18 years in prison. Inside China's prison system, Wei has been a constant target for harassment and reeducation by China's prison guards. Wei has fought the daily battle to maintain his integrity, the strength of his principles, and the conviction of his beliefs. After 14 years in prison, Wei was released in 1993 and promptly began condemning the Government's horrific record of political repression. He was imprisoned again for his courage and remains in a Chinese prison today suffering from a life-threatening heart condition.

Wei's love for his country is most clearly seen in the personal sacrifice associated with his forthright and constant stand against political tyranny. The Clinton administration could learn a lesson from Mr. Wei. In the long run, honesty is the best policy, and a forthright discussion of the atrocities being committed by Beijing will do more for a stable United States-China relationship than repeated acts of appeasement. True constructive engagement means that China is required to honor the trading agreements it signs, to avoid proliferating weapons of mass destruction, and to respect international norms for human rights. We in America need to realize what Wei recognized long ago—that the forces of justice and liberty are at work in the Chinese people just as they have been at work with such stunning effect in other nations around the world.

In the battle between liberty and tyranny in China, I am placing my wager on the side of freedom. As Ronald Reagan said, ''Democracy is not a fragile flower. Still, it needs cultivating. If the rest of this century is to witness the gradual growth of freedom and democratic ideals, we must take actions to assist the campaign for democracy.''

Mr. President, we must ask ourselves if we are taking those actions to cultivate the flower of liberty in China. Has our commitment to human rights and civil liberties been constant? Have we defended international norms against weapons proliferation that the free people of the world have embraced for their mutual protection? One need only look at the record of political repression in China and China's arming of Iran to see that the Clinton administration is failing to press our concern for international human rights and protect our own long-term national security interests.

American foreign policy needs to return to its most enduring and noble aspect: our willingness as a nation to sacrifice in order to help other peoples achieve the individual liberties we enjoy. When the Chinese people eventually rid themselves of tyrannical leadership and establish a democracy—and they will just as the South Koreans, the Japanese, and the Taiwanese have done before them—I hope they will be able to say that America stood by them in their darkest hours. For the Chinese people, the torch lit in Tiananmen Square is flickering. The American people want to stand by the Chinese. The Clinton administration has been less clear. The administration can stand up for America and the Chinese people by insisting that Wei Jingsheng be released.

THE COURAGE TO STAND ALONE

Mr. MOYNIHAN. I rise today to bring to the attention of my colleagues the publication of ''The Courage to Stand Alone,'' the letters of Wei Jingsheng, a fearless and outspoken dissident currently imprisoned by the People's Republic of China. For two decades Wei Jingsheng has been a leader in the struggle for democracy in China, as well as a passionate advocate of human rights for the people of Tibet.

Among the many crimes for which Wei has spent the last 18 years in prison, perhaps none is so onerous to his persecutors as his presumption to hold the totalitarian regime of the People's Republic of China to its own standard of law. As Andrew J. Nathan writes in his Foreword:

> Wei's powerful statement of self-defense [at his 1979 trial] exposes how little difference there is between the new legal system and the old absence of a legal system. The prosecutors and judges search for a crime and find none, but they obey orders. They sentence Wei to fifteen years.
>
> The outside world is outraged, but most Chinese at the time are wiser. They see Wei as the victim of his own naivete. He failed to appreciate the unwritten limits to free speech and legal reform. He committed the greatest offense in a dictatorship: taking words at face value.

The Courage to Stand Alone serves as a testament of resistance to the totalitarian phenomenon so brilliantly dissected in our century by the likes of Hannah Arendt and George Orwell. Wei's letters stand as the literary equivalent of the famous photograph of the lone Chinese individual confronting a column of tanks during the 1989 Tiananmen Square massacre.

In his letter of June 15, 1991 Wei writes:

> It is precisely because human rights are independent of the will of the government, and even independent of the will of all mankind, that people fight for the realization and expansion of human rights as a natural and unprovoked matter of course. They gradually come to the realization that the more widespread and reliable the protection of human rights is, the more their own human rights are protected. Just as man's understanding of objective truths and objective laws is a gradual process, man's understanding and comprehension of human rights is a gradual process. Just as man's grasp and utilization of objective laws is a progressive process, man's protection of the theory and practice of human rights is a progressive process.

Wei Jingsheng—by his words and conduct—has done much to advance our understanding of human rights in China and throughout the world. I commend ''The Courage to Stand Alone'' to all Senators, and I look forward to the day when Wei Jingsheng will again be free to stand together with other Chinese dissidents who struggle to bring a measure of democracy to their ancient and long-suffering homeland.

WEI JINGSHENG

Mr. LEAHY. Mr. President, there are some individuals whose personal courage is almost impossible to fathom, who will be long remembered for the example they set in standing up for what they believed for the sake of all of us. Wei Jingsheng, who is perhaps China's most famous political prisoner, is one such individual. Today I join Senators MOYNIHAN, HELMS, WELLSTONE and KENNEDY in recognizing today's publication of Mr. Wei's collection of letters to Chinese leaders and members of his family, and essays about democracy, ''The Courage to Stand Alone: Letters from Prison and Other Writings.''

Known as the intellectual leader of the Democracy Wall movement, China's first prodemocracy protest, Mr. Wei has spent nearly all of the last 18 years in prison for his outspoken, unrelenting criticism of China's political leaders and his thoughtful and inspiring writings about the need for democratic change and the rule of law in China. In one essay, Mr. Wei describes the law in China as, ''merely a 'legal weapon' that anyone in power can wield against his enemies.''

In an effort to convince the International Olympic Committee to award China the 2000 Olympic Games, the Chinese Government released Mr. Wei in late 1993. The cynicism of that decision was exposed just 6 months later, when he was rearrested and held incommunicado for 20 months, in part for meeting with Assistant Secretary of State John Shattuck. He is currently serving a 14-year sentence.

In addition to the egregious violations of the rights to freedom of expression, due process, and freedom from arbitrary arrest and detention, I am very concerned about Mr. Wei's health. He is suffering from high blood pressure and a heart condition, and has not received the medical attention he needs. He is not permitted to go outside, nor is he allowed physical exercise. I am told that prison authorities have moved other prisoners into Mr. Wei's cell to monitor and limit his political writing. If Mr. Wei serves all of his current 14-year prison sentence, he will be 60 years old when he is released. His health is so fragile it is uncertain whether he will ever get out alive.

Mr. President, Mr. Wei is one of thousands of courageous people who have been thrown in prison, tortured or otherwise silenced in order to squelch any expression for democratic change in China. Despite repeated attempts by our administration to discuss human rights with Chinese authorities, the Chinese Government has continued to insist that internationally recognized human rights are an internal matter. The situation has gotten worse, not better.

I urge all Senators read ''The Courage to Stand Alone,'' and to remember Wei Jingsheng and the thousands of other Chinese citizens who have remained steadfast in support of democracy and human rights, in the face of repression.

RELEASE OF WEI JINGSHENG

Mr. GRAMS. Mr. President, I join my colleagues urging the release of Wei Jingsheng, currently imprisoned in China for his efforts to promote democracy in China. Serving his second long-term sentence, Mr. Wei is seriously ill without access to proper medical care. He has served nearly 18 years in various prisons and labor camps and will not be released until 2009. It is doubtful he will last that long without medical attention.

I hope the leaders of China will grant Mr. Wei's release as an humanitarian gesture that would show the world that China has a commitment to improve the human rights of its citizens.

TRIBUTE TO WEI JINGSHENG

Mr. LUGAR. Mr. President, I rise today to join my colleagues in urging the authorities in Beijing to provide immediate medical care to Wei Jingsheng and to end his prolonged incarceration in Chinese prison. Granting these requests would not only be an act of official compassion but it would also signal to others that the introduction of economic liberalism—and the remarkable economic advancements that it spawned—is leading to improvements in internal freedom, human rights practices, and the quality of life in the People's Republic of China.

Responding to our modest requests would be a positive sign that China, as it seeks to be more fully integrated into the global system, is increasingly self-confident about itself, about the image it projects to the rest of the world and about the role it intends to play in the world.

Wei Jingsheng has spent the better part of his adult life in detention, in jail, and in labor camps. Most of his past 18 years have been spent in solitary confinement in unusually harsh conditions. His health has deteriorated badly and he is deprived of most normal privileges available to political prisoners. Those conditions and these deprivations would have broken the spirit of defiance in most human beings. Not so for Wei Jingsheng.

Wei Jingsheng's remarkable prison letters to the Chinese leadership will be published today, May 13. His book, ''The Courage to Stand Alone: Letters from Prison and Other Writings,'' is a splendid testament to the yearning for democracy by a political dissident who has never experienced true freedom in a land and country that has never experienced true democracy or anything approximating an open society. His writings speak to us about the need for democratic reform at a time when China exhibits little internal visible dissent. There is now no visible political dissent in China because political dissidents have either gone into exile, are in prison, or have redirected their energies in new-found entrepreneurial enterprises.

Mr. President, we are here today not only to laud the publication of Wei Jingsheng's book of letters or to urge Beijing to discard its harsh treatment of its leading political dissident, we are here to honor a true democrat. We should honor true democrats and democracy anywhere, and under any circumstances. We can and should promote human rights practices and democracy abroad just as we pursue other important national interests.

Our foreign policy must express both our values and our interests. That is why we must continue to support the development of political and economic reforms abroad while endorsing those democracy-promoting programs undertaken by such non-government organizations as the National Endowment for Democracy [NED] and the Center for Democracy.

Wei Jingsheng's current prison term expires in the year 2009 but his health is reportedly so poor that he may not survive until then. Keeping Wei Jingsheng in prison under such difficult conditions would be a permanent stain on China's claim that it is misunderstood by the rest of the world. To release this man and other prisoners of conscience would bring good will to China and assure the outside world

that China enjoys the self-confidence to change.

I join with my colleagues in the hope that Wei Jingsheng will be released from prison in the very near future.

Thank you.

URGING THE GOVERNMENT OF CHINA TO RELEASE WEI JINGSHENG—A POLITICAL PRISONER

Mr. DODD. Mr. President, I rise today with a simple message, a message to the Government of China to release Wei Jingsheng. Who is Wei Jingsheng? Born in China, Wei Jingsheng is a dreamer, a political activist, a writer, a silenced leader, an inspiration, a nurturing older brother, and one who possesses an unparalleled faith in democracy and its place in modern China. He is the kind of man who if living in America would undoubtedly grace these Halls. But Wei Jingsheng does not live in the United States, he lives in China, where the courage of his convictions have not been appreciated, in fact quite the opposite, Wei Jingsheng has been severely punished.

In speaking out for democracy and reform, Wei Jingsheng has suffered great consequences—consequences including nearly 18 years of solitary confinement, torturous treatment, the lack of medical attention, and numerous other methods known to squelch a man's spirits and weaken his convictions.

Now that we know about his punishment, let us consider Wei Jingsheng's crimes: numerous writings on democracy, a series of letters to China's paramount leader Deng Xiaoping before his death, communicating with foreign journalists, participating in the 1979 Democracy Wall movement, and most recently meeting with John Shattuck, the United States Assistant Secretary of State for Democracy, Human Rights, and Labor in 1994. Frankly, these do not strike me as crimes, or actions that warrant any sanctions by the state, and most certainly are not at all commensurate with the punishment Wei Jingsheng has endured.

Respect for human rights is an international concept. We only need look to the Universal Declaration of Human Rights to see a sample of the international consensus on human rights. While China may resent United States scrutiny on this topic, we do in fact have a legitimate right, as well as a moral obligation, to call for improved conditions. We can and should have a human rights dialog with Chinese leaders, and I encourage the administration to make more opportunities for such high level discussions to take place.

Wei Jingsheng is reported to be near the end of his life—a life of struggle and hardship. His recently published book ''The Courage To Stand Alone: Letters From Prison and Other Writings'' underscore Wei Jingsheng's struggle to promote democracy in China. I stand with my other colleagues in the Senate today to encourage the Government of China to immediately release Wei Jingsheng.

WEI JINGSHENG

Mr. KENNEDY. Mr. President, I join today with my colleagues in solidarity with a courageous Chinese advocate of human rights, Wei Jingsheng.

Each year, the family and friends of Robert F. Kennedy, and those who honor his legacy present a human rights award in my brothers name. In 1994, Wei Jingsheng won that award.

Except for a brief period in late 1993 and early 1994, Wei has been imprisoned since 1979 because he dared to call for democracy and freedom of expression in his country.

Wei never feared to tell the story of the abysmal conditions imposed on those who dare to speak for human rights, democracy, and freedom of expression in China.

He was an electrician at the Beijing Zoo in 1979, when he earned international praise during the Democracy Wall movement for his courageous essays criticizing the Chinese leadership and calling for democratic reforms.

In his 1978 journal, ''Explorations,'' he publicly exposed the torture of political prisoners. He later wrote one of the most famous essays of the democracy movement, arguing eloquently and powerfully that democracy and free speech were preconditions for China's economic and social growth. In another essay, he challenged China's leader at the time, Deng Xiaoping, saying: ''We cannot help asking Deng what his idea of democracy is. If the people have no right to express freely their opinions or to enjoy freedom of speech and criticism, then how can one talk of democracy? * * * Only a genuine general election can create a government and leaders ready to serve the interests of the electorate.''

For his refusal to remain quiet, he was arrested in 1979, tried secretly, and sentenced to 15 years in prison—most of which he spent in solitary confinement. He was repeatedly tortured.

In September 1993, Wei was released as part of China's public relations attempt to win the opportunity to host the Olympic Games in the year 2000. Upon leaving prison, Wei immediately resumed his leading role in the democracy movement.

On April 1, 1994, after Wei met with Assistant Secretary of State for Human Rights, John Shattuck, he was arrested again and held incommunicado for 20 months. He was formally charged in November 1995 and, after a 1 day trial, was convicted of ''engaging in activities in an attempt to overthrow the Chinese Government.''

Wei is now in a prison cell serving a 14-year sentence. His health is poor, his conditions are deplorable, and he is repeatedly tortured.

Today we celebrate the latest publication of his writings, ''The Courage to Stand Alone.'' Wei has often stood alone against the Chinese Government. But he does not stand alone, and he will not stand alone in the wider world. He will never stand alone, as long as there are those who care about human rights and who are willing to speak out on his behalf. We will go on doing so until Wei is released, all political prisoners in China are released, and the basic human rights he so bravely fights for are enjoyed by all the people of China.

MR. WEI JINGSHENG

Mr. KEMPTHORNE. Mr. President, I rise today to discuss the important issue of political prisoners in China. I want to thank Senators HELMS, MOYNIHAN, KENNEDY, and WELLSTONE for focusing the Senate's attention on this topic.

As we consider United States-China relations, respect for human rights must be at the top of our Nation's agenda. In that regard, today I call on the Government of China to release Mr. Wei Jingsheng from prison so that he may receive the immediate medical care he desperately needs.

Further, I call upon President Clinton to make the release of Mr. Wei Jingsheng, and all Chinese political prisoners, such as the Tibetan prisoners of conscience, a top priority as our Nation discusses our relationship with China.

The first amendment of our Constitution guarantees citizens of the United States freedom of speech, the right of people to peaceably assemble and the right to petition the government for a redress of grievances. Mr. Jingsheng does not have these rights, and so I join my colleagues asking for his freedom.

In the United States of America ''We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.''

That all men are created equal. This is one of our Nation's unswerving principles and we have never and should never be willing to, as President John F. Kennedy stated in his inaugural address, ''permit the slow undoing of human rights to which this nation has always been committed.'' And, as my colleagues know, there is a tragic lack of respect for human rights in China, which is why we are making these statements today.

Mr. Wei Jingsheng's courage and conviction should be a beacon to all of us. He has received the Robert F. Kennedy Human Rights Award and I would like to quote Senator Robert F. Kennedy:

> Some men see things as they are and say ''why?''
>
> I dream things that never were and say ''why not?''

Mr. Jingsheng has that courage to ask ''why not.'' So today, Mr. President, I rise and ask the Government of

China: Why not—why not release Mr. Wei Jingsheng.

WEI JINGSHENG

Mr. FEINGOLD. Mr. President, I rise today to call for the immediate release of Wei Jingsheng, China's most prominent political prisoner.

Wei Jingsheng is no stranger to harsh unjust treatment. He has spent all but 6 months of the last 18 years in prisons or in labor camps, often in solitary confinement. Now serving his second sentence of 14 years for the crime of peacefully advocating democracy and human rights, Wei Jingsheng is terribly ill. His expected release date is 12 years from now—the year 2009—and that is assuming he lives that long.

At 46 years of age, Wei suffers from life-threatening heart disease, he cannot lift his head, and he complains of severe back pain. His requests for medical attention have gone unfulfilled and all indications are that he has not seen a doctor in more than a year.

A former electrician at the Beijing Zoo, Wei has been one of the strongest voices of China's democratic movement. In recognition of his efforts, Wei was named the 1994 Robert F. Kennedy Human Rights Award laureate and, every year since 1995, Members of Congress have nominated him for the Nobel Peace Prize.

While in prison serving his first sentence, Wei was allowed to write letters on certain topics to his family, prison authorities, and China's leaders. Because most of these letters urged democratic reforms, they were seized by authorities and never sent. Wei was later able to retrieve them and release them publicly, and they have now been translated and published as a book. Today, May 13, is the publication date of this book, ''The Courage To Stand Alone: Letters From Prison and Other Writings.'' This book states what is obvious to Wei and should be clear to Americans: China needs democratic freedoms. Unfortunately, China's leaders continue to show a flagrant disregard for human rights.

In 1994, over the strenuous objections of those of us concerned over China's atrocious and repeated violations of international standards of human rights, the administration delinked granting of most-favored-nation trade status to China to improvements in its human rights record. The administration argued then that through constructive engagement on economic matters, and dialog on other issues, including human rights, the United States could better influence Chinese behavior. That was a mistake.

Let those who support constructive engagement visit the terribly ill Wei Jingsheng in his prison cell, and ask him if developing markets for toothpaste or breakfast cereal will help him win his freedom or save his life. I do not see how closer economic ties alone will somehow transform China's authoritarian system into a more democratic one. Unless we press the case for improvement in China's human rights record, using the leverage afforded us by the Chinese Government's desire to expand its economy and increase trade with us, I do not see how conditions will get much better.

In fact, the harsh prison conditions and lack of medical attention provided to Mr. Wei demonstrate that, after nearly 4 years, dialog and constructive engagement have made no impact on Chinese behavior. We should make it clear that human rights are of real—as opposed to rhetorical—concern to this country. Until Wei Jingsheng and others committed to reform in China are allowed to speak their voices freely and work for change, American-Chinese relations should not be based on a business-as-usual basis. I hope the administration will do everything possible to demand the immediate release of Wei Jingsheng and urge Chinese authorities to provide him with access to medical care that he urgently requires.

CALLING FOR THE IMMEDIATE RELEASE OF WEI JINGSHENG

Mr. D'AMATO. Mr. President, I rise today to call for the release of Wei Jingsheng who has been imprisoned for almost 18 years under the harshest of circumstances in China. Mr. Wei was first jailed in 1979 for advocating democratic reform in China. Can you imagine? The free exchange of such ideas which we take for granted every day in the United States cost Mr. Wei his freedom.

Mr. Wei was released in 1993 in an act which curiously coincided with an upcoming vote by the International Olympic Committee on China's application to host the Olympic games in the year 2000. China's bid for the Olympic games was unsuccessful and shortly thereafter Mr. Wei was imprisoned again. He is not scheduled for release until 2009. This overtly politically motivated move is unconscionable.

Through these years of personal terror Mr. Wei has frequently been held in solitary confinement. He was been the victim of cruelty and mistreatment which had a serious effect on Mr. Wei's health. I am told that Mr. Wei is suffering from heart disease but does not have access to proper medical care. This treatment is simply wrong.

The People's Republic of China wants to assume the status of a responsible nation in the world community. And yet they continue to subjugate the people of Tibet. As a case in point, I spoke earlier this year on the floor about Ngawang Choephel, a former Fulbright scholar at Middlebury College and a friend of the United States, who is serving an 18-year prison term for supposed espionage activities.

The People's Republic of China wants to assume the status of a responsible nation in the world community. And yet they continue to subjugate their own people as well. Mr. Wei is a case in point. The State Department in its annual human rights record for 1996 hit the nail on the head. It said that China ''continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms.''

Mr. President, Mr. Wei has suffered enough. The people of Tibet have suffered enough. The people of China have suffered enough. It is time for a change. We must work for that change in areas we can influence. And let's start by calling for the release of Mr. Wei.

THE UNJUST IMPRISONMENT OF WEI JINGSHENG

Mr. DASCHLE. Mr. President, today it is my unhappy duty to note the continued imprisonment of Wei Jingsheng by the Government of China. In an attempt to silence his bold voice for democracy, Mr. Wei has been jailed in solitary confinement or forced to work in a labor camp for all but 6 months of the past 18 years. As a result of his mistreatment, he suffers from a life-threatening heart condition and cannot lift his head due to a neck injury. Today I join my colleagues to call for his immediate and unconditional release, and urge the Government of China to provide him with medical attention.

Mr. Wei's commitment to democracy and freedom despite such mistreatment is a testament to the strength of the human spirit and the power that words hold over the human soul. He was first jailed in 1978 after founding an independent magazine and daring to call for democracy. Despite the hard conditions of prison life, Mr. Wei refused to abandon his beliefs. Over the next decade, he wrote many letters—some to his family telling of his daily life, others to the leaders of his nation urging them to take immediate steps toward democracy. Virtually all were confiscated by prison authorities and never sent. Released as a result of international pressure in 1993, Mr. Wei immediately resumed his advocacy of democracy despite all that he had suffered. Within 6 months he was sentenced to another 14 years in prison. Today Chinese officials consider his writings so threatening that he is constantly monitored by criminal inmates whose job it is to ensure that he puts no words down on paper.

Despite these measures, Mr. Wei's words have echoed throughout China and the world. In 1989, demands for his release helped to stir the demonstration in Tiananmen Square. He also has been honored with the Robert F. Kennedy Human Rights Award, the Sakharov Prize for Freedom, and been nominated many times for the Nobel Prize for Peace.

I am confident that the Chinese Government's attempts to silence Mr. Wei will not succeed. Mr. Wei's letters,

which he reclaimed as a condition of his release in 1993, are published in ''The Courage To Stand Alone: Letters From Prison and Other Writings,'' to be released today. It is my hope that these words will continue to echo throughout the world, and help to bring freedom and democracy to the people of China.

Thinking of Mr. Wei, I am reminded of the words of another man imprisoned for his uncompromising beliefs. As he wrote from his cell:

> Only one thing has remained: the chance to prove—to myself, to those around me and to God—that . . . I stand behind what I do, that I mean it seriously and that I can take the consequences.

Today I will meet the writer of those words, President Vaclav Havel of the Czech Republic. I am filled with hope as I think of President Havel's extraordinary life and his path from political prisoner to president. I know that Mr. Wei shares President Havel's determination to stand behind his beliefs. It is my hope that one day he also will be free to travel to Washington and that this day will come soon. Mr. Wei's unjust imprisonment must end, and I appeal to the Government of China to release him immediately.

CALLING FOR RELEASE OF CHINESE DISSIDENT WEI JINGSHENG

Mr. BIDEN. Mr. President, today marks the publication date of a remarkable compilation of letters from a remarkable man, imprisoned Chinese political dissident Wei Jingsheng. His book, ''The Courage To Stand Alone: Letters From Prison and Other Writings,'' should be required reading for anyone who takes for granted the freedoms enshrined in our Constitution and Bill of Rights. Wei is currently serving 14 years for the crime of advocating democracy in a country where freedom of speech does not extend to criticism of government authorities.

An electrician by training, Wei lacks the formal education of some other famous 20th century champions of democracy and civil rights—Vaclav Havel, Andrei Sakharov, or Martin Luther King—but whatever he may lack in sophistication, he more than makes up for with his blunt eloquence.

Just days before the Chinese crackdown against pro-democracy protesters in Tiananmen Square, Wei offered some candid advice for China's top leaders from his prison cell, urging them to ''take great strides to implement a democratic government as quickly as possible.'' A great tragedy might have been avoided if Beijing's gerontocracy had heeded Wei's call.

Wei was first imprisoned from 1979 to 1993 on charges of ''counter-revolutionary propaganda and incitement,'' the result of his participation in the Democracy Wall Movement. During this brief flowering of officially authorized political dissent in China, Wei had the nerve to argue that China's modernization goals could not be met without democratic reform. For this affront, he was severely punished.

In 1993, on the eve of the International Olympic Committee's decision about whether to award the 2000 Olympics to Beijing, China briefly released Wei in an effort to strengthen its Olympic bid. On April 1, 1994, just days after meeting with U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor, John Shattuck, Wei was detained once more.

He was subsequently sentenced to 14 years for trying to ''overthrow the Chinese Government.'' The actions cited as proof of Wei's ''counter-revolutionary'' intent included publishing articles critical of the government and raising funds for the victims of political persecution in China.

Wei has spent most of his last 18 years in solitary confinement, enduring a variety of physical and psychological hardships. He is now widely reported to be in very poor health, suffering from heart and back ailments that require urgent medical attention. Attention he is currently denied.

Today, I join with my colleagues to urge the Chinese Government to take all necessary steps to release Wei Jingsheng from prison on humanitarian grounds. Chinese authorities should ensure that Wei immediately receives the medical care he requires. Wei's imprisonment comes as a result of his peaceful advocacy of democracy and basic human rights. His words warrant our admiration, not a death sentence.

WEI JINGSHENG

Mr. HELMS. Mr. President, today is the publication date of a book of prison letters by Wei Jingsheng, ''The Courage to Stand Alone: Letters From Prison and Other Writings.'' Wei's book is the subject of a May 5 editorial in the New York Times; I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, Wei is China's most prominent dissident. Perhaps I should say that he is China's most prominent dissident in jail. In any event, there are no active dissidents in China, according to this year's State Department human rights report—they are all in jail, or silent.

Wei became famous for his powerful, articulate statements during the Democracy Wall movement. After his release in 1993, he returned his advocacy of democratic reform. After 6 months, he was rearrested and held incommunicado for almost 2 years before being sentenced to another 14-year prison term in 1996.

Wei shows no concern for himself. His health is poor, threatened by heart problems. Yet he continues to stand up to the Chinese Government, demanding freedom and democracy for the people of China.

Wei's letters reveal courage in the face of a brutal and immoral regime. His example is bound to humble any one who dares take for granted the freedoms enjoyed by the American people.

I hope that, somehow, Wei will learn of the enormous respect and support he has from the American people. I urge Senators to join in calling upon the Chinese Government to release Wei and immediately provide him with the medical treatment he so badly needs.

EXHIBIT 1

[From the New York Times, Monday, May 5, 1997]

LETTERS FROM A CHINESE JAIL—THE BLUNT DEMANDS OF WEI JINGSHENG

(By Tina Rosenberg)

For nearly 20 years, the Chinese government has sought to silence one of the world's most important political prisoners, Wei Jingsheng. Once an electrician in the Beijing Zoo, Mr. Wei is the strongest voice of China's democracy movement. He has spent all but six months of the last 18 years in prisons and labor camps, most in solitary confinement in conditions that would have killed a less stubborn man long ago and may soon kill Mr. Wei, who is 46 and very ill.

Now serving a second long sentence, he is watched around the clock by non-political criminal prisoners who insure he does not put pen to paper. But during his first imprisonment he was permitted to write letters on certain topics to his family, prison authorities and China's leaders. Most were never sent. But they have now been translated and published. They form a remarkable body of Chinese political writing.

The book, ''The Courage to Stand Alone,'' is published by Viking. It shows why the Chinese Government is so afraid of Mr. Wei. His weapon is simplicity. Unlike other Chinese activists, Mr. Wei does not worry about tailoring his argument to his audience and does not indulge in the Chinese intellectual tradition of flattering the powerful. He does not worry about being seen as pro-Western, or a traitor to China. He writes as if what is obvious to him—that China needs democratic freedoms—should be clear to anyone.

''Dear Li Peng: When you've finished reading this letter, please pass it on to Zhao Ziyang and Deng Xiaoping,'' begins one typical letter to three top Chinese leaders. ''I would like to offer several concrete suggestions.'' The first suggestion: ''take great strides to implement a democratic government as quickly as possible.''

He wrote this letter on May 4, 1989, one month before the massacre in Tiananmen Square, ordered by Li Peng and Deng Xiaoping.

Although he was not allowed to write of his worst mistreatment, his letters describe his health and request books, a heater, medicine or a hutch to breed rabbits when he is in a labor camp. The Government expected Mr. Wei to show he was being ''re-educated.'' Instead, he wrote essays on democratic restructuring of the Government.

Mr. Wei has always been uncompromising. In 1978, Mr. Deng was fighting for control of the leadership and encouraged reformist thinking. The activists created a Democracy Wall along a highway outside Beijing, where writers put up posters with their thoughts. Mr. Wei wrote the boldest poster, a tract arguing for real democracy and criticizing Mr. Deng, who was then revered by the activists. Mr. Wei then founded an independent magazine. He was arrested in March 1979, given a show trial and sentenced to 15 years.

He was released six months before completing his sentence, as part of China's bid to

win the Olympics in 2000. He refused to leave before getting back letters the prison authorities had confiscated. Once free, he immediately resumed his work for democracy. He was rearrested, and after a 20-month incommunicado imprisonment he was sentenced to another 14 years.

Although censorship insured that few Chinese heard of Mr. Wei after 1979, he has remained a touchstone of the democracy movement. In January 1989, Fang Lizhi, the astrophysicist, wrote a public letter to Mr. Deng asking for amnesty for political prisoners, mentioning only Mr. Wei by name. That letter touched off more letters and petitions and was one of the sparks of the student movement and the occupation of Tiananmen Square.

There is no visible dissent in China today. Some of the activists went into exile, many were arrested, others gave up politics and turned their talents to commerce.

The moral force of Mr. Wei's writing recalls the prison letters of other famous dissidents, such as Martin Luther King Jr.'s ''Letter From the Birmingham Jail,'' Adam Michnik's ''Letters From Prison'' and Vaclav Havel's ''Letters to Olga.'' Mr. Wei's letters are less eloquent, however. He is not a man of words, and he was probably not writing with an eye to publication.

But the most important thing the others had that Mr. Wei does not is widespread international support. Mr. King, Mr. Michnik and Mr. Havel knew that people all over the world were looking out for them and their governments were under pressure to free them, treat them well and heed their cause.

This security is as important to a political prisoner's survival as food and water, and Mr. Wei and his fellow Chinese dissidents do not have it. Their names are not widely known. While some American and other officials have brought them up during talks with Chinese leaders, in general the outside world treats Beijing officials with the deference due business partners.

Today Mr. Wei suffers from life-threatening heart disease. Because of a neck problem, he cannot lift his head. All indications are that he has not seen a doctor in more than a year. He is due to be released in 2009—if he lives that long.

The PRESIDING OFFICER. The Senator from North Carolina.

VISIT TO THE SENATE BY THE PRESIDENT OF THE CZECH REPUBLIC, HIS EXCELLENCY VACLAV HAVEL

Mr. HELMS. Mr. President, I am proud to present the President of the Czech Republic, His Excellency, Mr. Vaclav Havel. He is here on the floor.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent the Senate stand in recess for 7 minutes, so the Senate may greet him.

There being no objection, at 5:35 p.m., the Senate recessed until 5:43 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SMITH of Oregon].

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

ORDERS FOR WEDNESDAY

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that at 9:15 a.m. on Wednesday, the Senate resume consideration of S. 717 and Senator GREGG be recognized for up to 10 minutes in order to withdraw his amendment, and there be, then, 20 minutes of debate equally divided between Senators GORTON and JEFFORDS; and immediately following that debate, the Senate proceed to a vote on or in relation to the Gorton amendment No. 243, to be followed by a vote on or in relation to the Smith amendment No. 245; immediately following that vote, the bill be read a third time and the Senate proceed to a vote on passage of H.R. 5, the House companion measure, if it is received from the House and if the Senate language is identical to the House bill. I further ask consent that there be 4 minutes of debate, equally divided in the usual form prior to the second vote and 4 minutes equally divided between the chairman and ranking member prior to the third vote and, additionally, the second and third votes be limited to 10 minutes in length; and, finally, immediately following those votes, Senator STEVENS be recognized to speak in morning business for not to exceed 45 minutes, to be followed by Senator LEAHY for not to exceed 45 minutes, and further, following that time, the Senate proceed to the immediate consideration of Calendar No. 31, H.R. 1122, a bill to ban partial-birth abortions.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEI JINGSHENG

Mr. HUTCHINSON. Mr. President, most of the time when I stand on this floor following Senator WELLSTONE, I will be on the opposite side of Senator WELLSTONE's comments. This evening, I would like to associate myself with the comments that Senator WELLSTONE made. I think between the two of us, we pretty well cover the political spectrum as we stand today on the floor of the United States Senate and call for the immediate release of Wei Jingsheng, China's most prominent political prisoner.

Because of his courageous stand as a voice for democracy and human rights, Wei Jingsheng was sentenced in 1979 to 15 years in prison. He served 14½ years of his term and was released in September 1993 as part of China's bid to host the Olympic Games in the year 2000. Wei continued to speak out for human rights and was detained, again, by the Chinese Government less than 6 months after his release.

Wei Jingsheng was first jailed in 1979 because of his peaceful activities and writings during China's democracy wall movement, notably his famous essay, ''The Fifth Modernization—Democracy.'' Following his release from prison in September 1993, he met with journalists and diplomats, wrote articles for publications abroad and continued to assert the rights and aspirations of the Chinese people.

Mr. President, on December 13, 1995, Wei Jingsheng was tried and convicted of the totally unfounded charge of conspiring to subvert the Chinese Government. He was sentenced to 14 years in prison and 3 years deprivation of his political rights.

Human rights organizations and governments around the world have condemned the trial and severe sentence. We, the Congress, have unanimously adopted resolutions calling for Wei's immediate and unconditional release. The European Parliament has also called for his release, declaring that Wei had been ''persecuted because he was demanding democratic rights for Chinese people.''

Mr. President, it is my understanding that Wei's family has appealed to the United Nations for help, increasingly concerned about his failing health, which has further deteriorated. Though he is no longer in solitary confinement, Wei is under constant surveillance from other inmates while cell lights are on 24 hours a day, visits by his family are restricted, and he has no access to outside medical care.

Wei Jingsheng remains a symbol of hope in China for those within China who are voiceless. They have steadfastly refused to give up their beliefs, their principles and their commitment to democratic reforms, despite the suffering and punishment that they have endured.

I believe that by honoring Wei for his courageous commitment to human rights and fundamental freedoms, we will draw attention to the ongoing struggle for fundamental human rights in the People's Republic of China at a crucial time in that nation's history. Calling for the immediate release of Wei sends a strong message to China on behalf of the entire international community.

On Friday of last week, I joined a bipartisan and bicameral effort in honoring Dr. Nguyen Dan Que, along with Mr. Harry Wu, at the third anniversary of the Vietnam Human Rights Day. As I speak today, Dr. Que still remains in prison unable to leave Vietnam to seek medical attention and unable to speak freely about the abuses he has suffered at the hands of the Vietnamese Government. Of course, Mr. Wu, who fought for representative government and human rights in China for many years, was persecuted and held as a prisoner of conscience by China's Communist dictatorship. He was eventually allowed to emigrate to the United States where he has, thankfully, continued his efforts to help the Chinese people gain liberty and human dignity.

On August 25, 1995, Mr. Wu was expelled from China and returned safely to San Francisco. While this case was notable because Mr. Wu is a naturalized American citizen, the Chinese Government holds many thousands of prisoners who, like Mr. Wu and Wei Jingsheng, are guilty of nothing more than speaking out in defense of human liberty.

While the cases of Mr. Wu, Wei Jingsheng and Dr. Nguyen Dan Que

may differ, they are all representative of human rights abuses around the world, and especially by the Chinese Government.

For too many years, Mr. President, these courageous individuals have been deprived of the opportunity to exercise the right to self-determination concerning fundamental human and political aspirations. I say again, for too many years, they have been denied those rights.

Furthermore, it has been almost 3 years since the United States formally delinked American trade with China from its human rights performance of abuse. I say to my colleagues that much has changed in China, but it has not changed for the better. We now see a human rights situation that is worse by every measure: persecution of Christians, forced abortions, sterilization of the mentally handicapped and kangaroo courts for democratic dissenters.

Mr. President, I am deeply concerned with the mounting campaign of religious persecutions waged by the rulers of China. The Roman Catholic Church has effectively been made illegal in China. Priests, bishops, and people of faith have been imprisoned and harassed.

China's recent moves have menaced Hong Kong, in violation of their agreements with Britain and their assurances to the United States. Forty percent of education and social services in that colony are currently run by church-related agencies. China's action in suspending the Hong Kong Bill of Rights threatens the freedom of speech, the freedom of assembly and the freedom of religion.

I believe that these arguments will come to a boil again in coming weeks, when this Congress votes once more on most-favored-nation status for China. It is the obligation of the American Government to uphold the principles of democracy and freedom for all peoples. We must not turn a blind eye to the oppressed in the interest of expanded trade opportunities. The idea that expanded trade would somehow result in improved human rights conditions in China has been disproved. It simply has not happened.

Today's statements calling for the immediate release of Wei Jingsheng heeds hope for those who are victims of oppression. I look forward to the day when all peoples enjoy the countless freedoms that we have in the United States. I salute the efforts of Wei Jingsheng, Mr. Harry Wu, Dr. Nguyen Dan Que, and I urge my colleagues to stand up and voice their opposition to the treatment of these political dissenters and these defenders of liberty and, furthermore, we should stand against all human rights abuses around the world.

Thank you, Mr. President. I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent that I be able to speak as in morning business for as long as necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTIAL-BIRTH ABORTION

Mr. SANTORUM. Mr. President, I rise today to begin the debate on the issue of partial-birth abortion. This is an issue that, obviously, has garnered a lot of attention over the past couple of years, both in the House and Senate and across the country. While the bill is not formally before us tonight, the bill will come up tomorrow. I have been informed that it will come up approximately at noon tomorrow, when we can actually begin debate on the bill itself.

So the debate on partial-birth abortion will begin tomorrow in the U.S. Senate. For those who have been following this issue, the questions that I have been asked, and Members are being asked on both sides of this issue, is not whether this bill will pass. I believe this bill will pass. The question is whether we are going to have sufficient votes to override what appears to be an almost certain Presidential veto.

In the House a few weeks ago, the House passed the legislation with 295 votes, more than the 290 needed to override the President's veto. We only need 67 votes in the U.S. Senate to be able to override the President's veto.

At this point, I think by all accounts, we are not there yet. We are still several votes short of the 67 votes committed publicly to supporting this legislation on final passage and supporting it in the face of a Presidential veto.

I will say we are at least four or five votes short at this time, and we are narrowing down the time here in which decisions have to be made.

So while I am not particularly optimistic of our opportunities at this point to get the votes necessary to override the President's veto, I think this is an issue that is going to continue to percolate, not only from the time that we debate in the Senate over the next few days, but also after the vote is taken, during the time that the President is considering it, and when the bill comes back here. So there will be plenty of opportunities for further debate, further evaluation as to whether the votes cast by all the Members are the votes that, in fact, will be the votes on the override vote itself.

What I would like to do in starting the debate is to fill in for those Members who may not have been involved in the partial-birth abortion debate—and we have a lot of new Members this year—to fill in the who, what, when, where, why, how and how many. All of the questions that normally would be asked about anything, let's ask them about the issue of partial-birth abortion.

This has been an interesting topic of discussion only because of the fabrications that have been built around what this procedure is about, when it is used, how often it is used, who it is used on, where it is used, how many there are. Those have been the subject of a lot of publications and debate about how the people who oppose this legislation have constructed a fantasy, if you will, as to what this procedure is all about.

So today, as I tried to in the previous debate, I am going to attempt to lay out the truth as we know it. I say as we know it, because a lot of the truth is based upon what the opponents of this legislation tell us is the truth. An example of that is how many of these abortions are performed. The Centers for Disease Control do not track how many partial-birth abortions are done. They only track the abortions and when they are done. They do not track the procedure that is used to perform the abortion. The only people who track that, at least we are told the only people who track that, are the abortion clinics themselves who oppose this legislation vehemently. They are the ones that those of us who have to argue for its passage have to rely upon for the number of partial-birth abortions that are done. That is hardly a comforting position when you have to rely on your opponent for the information that you are to use in challenging the procedure.

But let me, if I can, walk through first what is a partial-birth abortion. I caution those who may be listening, this is a graphic description of this procedure. I just want to alert anyone who might be watching who might feel uncomfortable with that.

A partial-birth abortion is, first, an abortion that is used in the second and third trimester, principally in the second trimester. It is used at 20 weeks gestation and beyond by most practitioners of partial-birth abortion. So, by definition, it is later term, you are into the fifth and sixth month of pregnancy.

The procedure is done over 3 days. You will hear comments by Members who come to the floor of the Senate and suggest this procedure needs to remain legal to protect the life and the health of the mother. First, there is a life-of-the-mother exception in the bill. Very clear. It satisfies any definition of what life-of-the-mother exception needs to be.

Second, health of the mother. I just question anyone, just on its face, not as a medical practitioner, which I am not, but on the face of it, if the health of the mother is in danger, particularly if there are serious health consequences, why would you do a procedure that takes 3 days? That is what this procedure takes. It is a 3-day procedure. You have a mother who is at 20 weeks, or more, gestation, who has to have her cervix dilated. In other words, they have to create the opening through which the baby can come in the womb, in the uterus. And so it takes 2 days of drugs given to the mother. She does not stay at the hospital. It is not an inpatient procedure. She takes the drugs and goes home. If there are complications they happen at home, not anywhere else.

The cervix is dilated. When you dilate the cervix, that opens the womb up to infection, but for a 2-day period, the cervix is dilated. On the third day, after a third day of dilation, the mother comes into the abortion clinic. The procedure then proceeds as follows.

The doctor is guided by an ultrasound, and the abortionist reaches up with forceps and grabs the baby, which is normally in a position head down, grabs the baby by its foot, turns the baby around in the uterus, in the womb, and then pulls the baby out feet first in what is called a breech position. You may have heard of breech birth and the danger of birthing in a breech position. Here we have a doctor who deliberately turns the baby around and delivers it in a breech position.

You may want to ask the question, why do they go through the trouble of pulling the baby out feet first? Why do they not simply deliver the baby head first and do what I will describe later? The reason they pull the baby out feet first and deliver the baby, as the next chart will show, all but the head—they deliver the baby out of the mother, with the exception of the head.

Why do they leave the head? Why do they not take the head out first, which would be a normal delivery, a safer delivery? The reason they do not deliver the head first is because once the head exits the mother, it has constitutional protection and it cannot be killed, because once the head exits the mother, it is considered a live birth and you cannot kill the baby. So they take the baby out feet first so they can then take a pair of scissors, puncture the back of the baby's skull to create a hole, open the scissors up to create a hole large enough for a suctioning tube to be put in the baby's head, and the brains suctioned out, thereby completing the murder of this baby and then having the baby delivered.

I just remind you the reason they do not do it head first is because if they did it head first, which would be safer than reaching in with forceps and grabbing the baby out from a breach position, if they did it head first, they could not do this, because once the baby is outside the mother they could not kill the baby.

Who is this procedure used on? It is used on fully formed babies from 20 weeks on. Now, we will discuss what has been said in the past about who this has been used on. The abortion industry has made claims that this procedure was a rare procedure that was just used—and I will read some quotes—quoting from the Feminist Majority Foundation, ''A procedure used less than 600 times a year, and in every case, to protect the life or health of the woman.'' ''The procedure is used only,'' according to the Feminist News, ''600 time a year to save the life, health, or future fertility of the woman and in cases of severe fetal abnormality.'' Here is another feminist news article, ''used less that 500 times a year when necessary to protect the health of the woman facing severe problems due to the pregnancy.'' This is the National Abortion Federation factsheet on February 26, 1997: ''This particular procedure is used in about 500 cases per year, generally after 20 weeks of pregnancy, and most often when there is severe fetal anomaly or a maternal health problem detected late in pregnancy.''

The Alan Guttmacher Institute, as well as Planned Parenthood, the National Organization for Women [NOW] Zero Population Growth Fund, Population Action International, and the National Abortion Federation sent a letter October 2, 1995, to the Congress that said, ''This surgical procedure is used only in rare cases, fewer than 500 per year. It is most often performed in the cases of wanted pregnancy gone tragically wrong, when a family learns late in pregnancy of severe fetal anomalies or a medical condition that threatens the pregnant woman's life or health.''

Kate Michelman, President of NARAL, on June 2, 1996: ''These are rare terminations. They occur very rarely. They occur under the most difficult of circumstances. As I said, these are pregnancies that have gone awry.''

Let me tell you what Members of the Congress said. From Pat Schroeder, ''There are very, very, very few of these procedures. These procedures are heart-break procedures.'' Senator KENNEDY, the Senator from Massachusetts, said, ''The procedure involved in this case is extremely rare. It involved tragic and traumatic circumstances late in pregnancy, in cases where the mother's life or health is in danger.'' Senator FEINGOLD, ''In fact, these abortions take place only when the life or health of the mother is at risk.'' Senator DASCHLE, ''This is an emergency medical procedure reserved for cases where the life and health of the mother could be endangered or where severe fetal abnormalities are a major factor in the decision made by a woman and her physician.'' Senator CAROL MOSELEY-BRAUN, ''Partial-birth abortion is a rare medical procedure used to terminate pregnancies late in the term of when the life and health of the mother is at risk or when the fetus has severe abnormalities.''

That is what we were told over and over. That is what the media bought. That is exactly how they covered this issue. They covered this issue as a very tragic, rare procedure used only in cases of life, health, and fetal abnormality—in only a few hundred cases.

Now, we knew different. I argued it. Check the record from the last debate, that this was not as rare as they suggested. In fact, I entered into the RECORD an article written last fall by the Bergen County Sunday Record in New Jersey, where a reporter who took the time to do something reporters usually do not do on debate, particularly when it has to do with checking people in the abortion industry on their facts. She actually checked the facts. This reporter checked at an abortion clinic in northern New Jersey how many of the procedures were performed, and the reporter talked to two doctors, two abortionists, who said that they performed 1,500 partial-birth abortions every year, and not on fatally defective babies or not on unhealthy mothers or unhealthy babies, but usually in the fifth and sixth month for no health reasons at all—healthy moms, healthy babies, healthy pregnancies.

We had that article already printed. That did not deter the President from saying what he said. We have quotes from the President here. ''I came to understand that this is a rarely used procedure, justifiable as a last resort when doctors judge it is necessary to save a woman's life or to avert serious health consequences to her.''

Now, the President knew better when he said that. That information was available to the President. It is available to him now. But what happened between now and then that has caused such a stir? Well, I can tell you, unfortunately, the media has not done a very good job of exposing this. I do not know of any other reporters who made calls to their abortion clinics. They will not tell me or National Right-to-Life when they call, but they might. Sometimes they do not. I know of a reporter at the Baltimore Sun who tried to contact abortion clinics in Baltimore, and at least what she related to me was they would not talk to her, they would not tell her. I do not know of any reporters who have taken the time to actually check the facts.

What are the facts as we know them now? Well, thanks to Ron Fitzsimmons, who heads up an organization of abortion clinics—let me repeat this, a man who runs an association here in the Washington area—that represents some 200 abortion clinics all over the country, came out just a couple of months ago and said that he had lied through his teeth and he could not live with it anymore. He had lied through his teeth about what had been said by the abortion industry about the issue of partial-birth abortions. He said that this was not, in fact, a rare procedure, used only in the late term for unhealthy pregnancies and for maternal health reasons or because of a severe fetal abnormality, but this was a procedure used principally in the fifth and sixth month on healthy babies and healthy mothers. In fact, I think the figure 90 percent was used. Then he said, ''We estimate the number of these procedures that are done at between 3,000 and 5,000, not 500.'' He said, ''We have known this all along.'' He said as soon as the bill was introduced he called some of his providers, and he knew this from day one of this debate, of, now, I think, 2 or 3 years ago. Yet the industry, knowing this, up until literally the day before, and in fact on the Web page of some of the abortion rights groups, you still find claims that this is a rare procedure used only in the cases of fetal abnormality. So they

continue to try to perpetrate the lie, and they certainly did until Ron Fitzsimmons blew the whistle.

So what do we know now? I am not too sure we know too much. We know from the Abortion Provider Organization that they are willing to admit to 3,000 to 5,000. There is no check on what that number is. It could be 3,000 to 5,000, 5,000 to 10,000, 10,000 to 20,000, 20,000 to 30,000. There is no independent verification of that number, and we have to rely on the organization that is here fighting this bill to give us the information which we want to fight over. So we know of at least 3,000 to 5,000, but we also know that in one abortion clinic alone 1,500 were performed last year, and the doctors who were interviewed for that story in the Bergen County Sunday RECORD said they had trained other abortion doctors in the New York area who also performed the procedure. The other people who were known to perform the procedure and teach it do not reside in the New York area. And we also have reports from a doctor in Nebraska who said that he has performed 1,000 of these abortions.

So I just caution, as we begin the debate here, that we are debating on some very soft ground when it comes to how many of these abortions are performed, when we make this claim that it is only a few thousand. Maybe I am making too much of the fact that it is a few thousand as opposed to a few hundred. I guess I make the point because it points out the inaccuracy of the opposition's information. Frankly, if it was one, it is as much of a crime, in my mind, and I hope in most Americans' minds. If we subject one baby unnecessarily to this barbarism, is that not enough? Do we need 500? Do we need 1,000? Do we need 3,000 to 5,000? Is that the threshold where Americans will look up and say maybe we should do something about it? One is not enough. It does not stir up moral outrage if it is only 1, 2, 200, or 500.

Why is this procedure used? As I said before, they suggested that this procedure was used to protect the life and health of the mother. That was the argument being used. As I said before, 90 percent of the abortions, according to the people who oppose this bill, 90 percent of the abortions, are performed electively, for no reason other than the mother decides late in pregnancy that she does not want to carry the baby.

The question is, is it ever medically necessary to use this? Because that is the argument, that we need to keep this procedure legal because it is medically necessary to protect, as the amendment from the Senator from California, Senator BOXER, which we anticipate being offered, it is necessary to keep this procedure legal to protect the life and health of the mother. But we have the life-of-the-mother exception in the bill. So we have taken care of the first issue. Although, as I said before, I cannot imagine—and I have asked on the floor this question, and I ask it again—any circumstance where a mother presents herself in a life-threatening situation where you would then conduct a procedure that takes 3 days in which to abort the child. Again, I am a lay person here, not a physician. I have talked to physicians, and they say there is no such situation. But as a lay person, you don't have to be a doctor to figure this one out. You are rushed and presented to a doctor with a life-threatening situation and they say, let me give you medicine and come back, and then give you medicine again and come back, and they give you more medicine and send you home. That isn't going to happen. But to take care of those who have an objection, we put a life-of-the-mother exception in there.

Now they want a health-of-the-mother exception. Let's first look at whether this would be used to protect the health of the mother. I have talked to a lot of physicians, obstetricians who have stated very clearly to me that a partial-birth abortion is never necessary to protect the life or health of a mother. That is a group of more than 400 obstetricians, principally obstetricians and gynecologists, and some other physicians, including C. Everett Koop, former Surgeon General of the United States, who, prior to his fame as Surgeon General, was a well-respected and well-known pediatric surgeon who dealt with children shortly after birth, trying to fix some of the problems that they were born with. So we have clear medical judgment that this procedure is never necessary to protect the health of the mother. In fact, they make the argument that it is contraindicated, that it, in fact, threatens the health of the mother for a variety of different reasons. So we have doctors who say that this is not necessary to protect the health of the mother.

Now, I will ask—and I have asked Members on the other side of this issue—when would this procedure be used to protect the health of the mother? Remember, it is a 3-day procedure. I have talked to physicians who say there are times when the life of the mother is in danger or the health of the mother is in danger and they need to separate the child from the mother. But in none of those cases is it necessary to deliberately kill the baby. They can induce labor, deliver the child vaginally and give it a chance to live. They can do a Cesarean section and deliver the child that way and give the child a chance to live. At no time is an abortion necessary that kills the baby in order to protect the health of the mother. And so why is it performed?

The answer is very simple. It was given by the person who designed the procedure, who is not an obstetrician. He is a family practitioner who does abortions. He designed this procedure, very candidly, because this was a procedure that he could do on an outpatient basis. The woman would present herself after 3 days of having her cervix dilated, and he would be able to quickly do this procedure, so that he could do more in one day. It is done for the convenience of the abortionist. That is why. It is not done to protect anybody's life or health. It is done to make it easier on the abortionist. And it is used, again, on healthy moms, healthy babies in the fifth and sixth month of pregnancy, in almost all cases.

(Mr. BROWNBACK assumed the chair.)

Mr. SANTORUM. Where is this procedure done? Will you find this procedure done in the finest hospitals in this country? Will you find it even described in a medical book? Will you find it taught at any school in this country? The answer to all of those questions is ''no.'' This is not taught anywhere. This has not been peer-reviewed anywhere. This is not used in any major medical center. It is used in abortion clinics exclusively. No hospital will get near this procedure. It is not a peer-reviewed procedure. It is not an accepted medical procedure. It is not in any textbooks or in any kind of educational literature. It is a fringe procedure by someone who wanted to make it easy on themselves to do more late-term abortions and do more of them in 1 day.

So that sort of sums up the who, what, when, why, where, and how many of this procedure. Now, why do we think it is important to outlaw this procedure? Well, there are lots of reasons why I think we should outlaw this procedure. No. 1, because it is a barbaric procedure. I hope that it would shock the consciousness of every Member of the Senate that we would allow innocent human life to be treated in such a deplorable fashion, to be manhandled and destroyed, as we would not even allow a dog to be destroyed. So, on the surface of it, the obvious reason is that this goes beyond the pale of what should be acceptable in our society. I can't imagine a Senator from the United States of America standing on the floor of the U.S. Senate 30 years ago with these charts and having to argue—argue—that this should be illegal in our country. Absolutely incomprehensible. Yet, 30 years later, as a result of Roe versus Wade, we have become so desensitized to the humanity of a baby inside the mother that we will allow this to occur—and defend it, defend it, vehemently defend it as a right.

The abortion debate in this country since Roe versus Wade has focused on the issue of rights, of choice. The reason I think the abortion industry and abortion rights advocates are so upset about this debate is because, in a partial-birth abortion, you can't miss what is at stake here. This is not about a right. It is about a baby. You can't miss the baby here. It is right here before your eyes. It is right there where you can see it. It is outside of the mother and you can't avoid it. That is why they just cringe when this bill

comes to the floor, because now we are talking about the dirty little secret we have had in this country for a long, long time, that abortion—and I will use the words of Ron Fitzsimmons—''One of the facts of abortion is that women enter abortion clinics to kill their fetuses. It is a form of killing. You're ending a life.'' Bravo for Mr. Fitzsimmons for stating the obvious. But that is something that the abortion industry has steadfastly avoided. He is talking about what abortion really is. It is about ending a life. And in this case, you can't miss the life. It is right here, right before your eyes, fully formed. The argument about just a blob of tissue or some protoplasm doesn't hold up at this late stage of a pregnancy. This is a baby. It is a fully-formed little baby. In many cases, it's a viable little baby.

I mentioned Roe versus Wade. There are some people who will argue that this goes over the line, that this violates the provisions of Roe versus Wade. Let me address that issue very briefly and I will refer not only to the committee report in the House, the House Judiciary Committee report, but also the remarks made by my colleague from Pennsylvania, Senator SPECTER, on this issue. It was one of the reasons he supports the ban. When the baby is here in the mother's uterus, Roe versus Wade applies. Roe versus Wade says that, basically, for the first two trimesters, the woman has the right to do whatever she wants to do with that child in her womb. That is what Roe versus Wade says. They said, in the third trimester—it is definitely implied if not stated—because of the fetus', the baby's, potential viability, the rights of the baby come into play and there are limitations on abortion.

Well, see, we have an interesting case here because this procedure takes the baby outside. The baby is not only outside of the uterus, except for the head, but outside of the mother almost completely, and is in the process of being born. In fact, the baby is almost completely born, hence the procedure's name, ''partial birth.'' So the baby is no longer completely within the domain of the uterus and then ruled by Roe versus Wade. By leaving the uterus, the baby gains rights that it didn't have inside.

As an aside, don't you find it an interesting irony that inside the mother's womb this little baby, surrounded by fluid and warmth, is the most vulnerable to be killed and has no protection against someone who wants to kill it. Once it leaves what would be seen by the baby as a safe environment, then it could be protected. But in the place where you would think that the baby would be most secure is the one place where it is the most vulnerable to being killed, and only because this procedure involves partial birth, only because the baby leaves the mother does Roe versus Wade not apply. And so those who argue that we banned second-trimester abortions by banning this procedure—and we would because most do take place in the second trimester—that we violate Roe versus Wade, they don't understand Roe versus Wade. That child is no longer in the uterus and that child, now that it is born and still alive, still feeling, able to feel pain, cannot be killed; or at least we can ban it under Roe versus Wade because it has rights. The baby has rights.

So we very strongly believe that these spurious arguments that somehow or another Roe versus Wade is being violated—by the way, there is nothing more I would rather see than Roe versus Wade being violated, but it doesn't do it here. This procedure does not do it. This procedure falls well within the constitutional boundaries of Roe versus Wade and Doe versus Bolton.

Another issue that is being charged against this procedure—or it comes out in favor of this procedure—is the issue of a fetal abnormality. I am going to have a lot to say about the issue of fetal abnormality. But let me just say this for now. We have had Members of the U.S. Senate stand here in some of the finest hours of the U.S. Senate, and argue forcefully, gallantly, to protect the rights, the health, the safety, the security of disabled children. We passed the Americans With Disabilities Act. We are debating ironically—the irony is not lost—IDEA, which has the rights of disabled children in our discussion today. That bill is actually the bill before us as I speak. You will hear such passion. You should listen to some of the debate—those of you who did not—the passion of the Senators defending the right for children with disabilities to have access to educational opportunities so they can maximize their human potential. Yet, unfortunately some of the most passionate speakers on that issue—turn around and passionately argue that because of their disability we should be able to kill them before they are born.

Abraham Lincoln used a Biblical verse. ''A house divided against itself cannot stand.'' How can you with any kind of reflective conscience argue that the right to be so that children with disabilities have the ability to maximize their human potential and the Government should be there to ensure that their rights are not trampled upon and then not be willing to give them the most precious of all rights, the right to live in the first instance? How can you be a champion of the disabled when you will use fetal abnormality as an excuse to kill them in the first place?

It is a shocking realism in this country that goes back to what I suggested before, which is we have become so desensitized to human life to kill a little baby, that unseen, unborn child, that because it is unseen you can just put it out of your mind, it is not really seen. That desensitization has consequences. We are seeing the consequence right now. We are debating this procedure. It is incredible to me that we even have to debate this. But it is here because people just have forgotten what life is all about, and what life means.

We have across the street, at the Supreme Court, the issue of doctor-assisted suicide. We have had lower courts say that doctor-assisted suicides are OK. We have massive organizations—I do not know how massive—at least organized organizations that advocate for allowing people to kill themselves and to have doctors help them. Again, I look back at 20 or 30 years ago and wonder whether that debate could have occurred at this time. But do not be surprised, particularly if this bill is unsuccessful, if we send the message out to the country that says human life isn't really that valuable, that we can in fact brutalize the most innocent children who have done nothing wrong to anybody.

It is amazing. You can describe this procedure. I saw a television commercial put out by one of the groups who showed a prisoner shackled, both arms and legs, walking down death row and being put in a chair. While he was walking and he was led to the chair, what if a voice describes the procedure, describes taking the scissors and puncturing the base of the skull and sticking a vacuum tube in the base of the skull and suctioning the brain out? The courts would clearly find that cruel and unusual punishment and violative of the Constitution. But you can do that to a little baby who hasn't killed anybody. It hasn't robbed, raped, stolen, nor harmed a soul. And then we wonder what is happening to our culture. We wonder, as we sit at home and we listen to the news, and we listen and we read the papers, and we see the young people out there, and we wonder. Why have they gone astray? What is happened to the fabric of our culture? Why don't they have respect for our country, for people's goods, for other people's lives? Why, indeed? You need to look only this far: 1.5 million abortions a year, as public, and as customary, and as usual, and, as a matter of fact, as any number you will hear on the U.S. floor—1.5 million abortions.

OK, what is next? You will hear it discussed in the news: Abortion. It is a matter of choice. It is someone else's decision. I do not want to get involved. It has nothing to do with me. Look around you. Things are coming to roost in this country. When you have such disdain for human life that we are seeing exemplified, magnified, by allowing this procedure to go forward, by allowing this innocent little baby to be mutilated, butchered in such a way. People who vote for this to remain legal have answered their own question as to why our culture is the way it is, because the great, great leaders of our country, the role models—that is what we are, whether we like it or not. Every Senator who goes into a school—and I go into a lot of them—particularly young kids. I am sure the Presiding Officer now sees this as a new Member of the Senate. Oh, they would love

to have your autograph. They want to have your picture taken with them because you are someone to look up to. You are someone who has achieved a level of excellence that we admire in this country. You are in a position of authority. What you say and think matters. And they look up to us.

Is this what you want them to see? Is this what you want to teach the next generation, that this kind of brutality is OK, and then you wonder why you see random acts of violence and you wonder why you see no respect for human life? The consequences are real. They are here. We don't have to speculate as to what the consequences of this are. They are here, and we are living with it.

All we want to do here is to take one little step in creating some decency again, one meek little message for the people in this country that life should be respected, that children should not be brutalized unnecessarily. That is what this procedure does.

You will hear arguments that this will not stop abortions. It may be true. I wish I could say this would stop hundreds and thousands of abortions. But I am not too sure that it will.

What I am sure of is that this brutality will stop and we will send a very clear, positive message to Americans and to the world that this kind of barbarism has no place in American culture, certainly no place in the laws of our country.

So I hope that as Members come tomorrow and we begin the formal debate on this bill that they will come with open minds and open hearts, that they will seek the truth. This debate has been surrounded by lies from those defending the procedure. Hopefully those admissions of lies will give people the opportunity to look anew at what the facts are, not just the facts of when this is used, but how it is used. I went through all of those things—but what the ramifications are for this country and for our society.

The abortionists are probably right. We are not going to stop a lot of abortions. There are other methods of abortion available if we outlaw this. Abortions unfortunately on babies this age will continue. But we send a signal, as small as it is.

That is why I guess I am so shocked at the vehemence of the opposition, the opposition that says this will not stop abortions, the opposition that admits that this is rare and that this is a fringe procedure. They admit it is not a commonly used procedure, that it is not in the medical literature. They know all of that. Yet, they stand here, backs to the wall, fighting for every last inch of not defendable territory. Folks, this is not defendable territory.

We may not win this time. I don't know what God has planned for this debate. But we may not win this time. That is OK. We will be back.

This is wrong. So when people in the U.S. Senate who believe something is wrong don't stand up and fight to overturn that wrong, we will be in for very serious, even more serious, consequences for this country.

So I hope that my colleagues, enough of my colleagues, would share my concern, would look at the new evidence. There are new facts that are accurate to the degree they can be accurate relying on the other side. There are more accurate facts available now on this debate. There is ample reason to reconsider this vote.

I hope that they would be led by both their hearts and their minds because on both scores we win. There is no medical reason for this procedure to occur. You will not find any physician anywhere describing any condition where this procedure is necessary and is the only one available to be used for whatever situation. In fact, as I said before and I will say over and over again, this is a 3-day procedure. Why would it ever be used in a life-threatening situation when there is imminent health damage? It would not be used. We have hundreds of physicians who have testified via letters that this procedure is never medically indicated.

So on the facts, on the medical facts, using their brain only, this is not only unnecessary, unwarranted, but unhealthy.

I will share one other statistic from the Alan Guttmacher Institute, one of the signatories of the letter I referred to earlier with NOW and NARAL. This is an organization which is very much proabortion. This is a very, very radical group. And here is what their numbers say. After 20 weeks gestation, after roughly 4 and a half months, abortion is twice as dangerous to maternal health as delivering a baby. So to even suggest that abortion is necessary in cases of whatever, fetal abnormality or just because you do not want to have the child, that that is safer for the mother than delivering the baby either via Cesarean section or by vaginal delivery, the pro-choice institute, Alan Guttmacher Institute, says that it is twice as dangerous to the life of the mother to have an abortion after 20 weeks as it is to deliver the baby.

So if you are really wrapped up on this issue of health, abortions are more dangerous than delivering the baby. There is no health reason to do this procedure. In fact, because it is a blind procedure—the abortionist cannot see the base of the skull, and so they have to feel—as you see, they have to feel with their hands and then take a blunt instrument and puncture the base of the skull, which can cause bone fragments. This is a very blood-rich area, a lot of veins exposed. There can be damage done by doing this blind procedure. This is not a procedure that protects the health of the mother.

So using your brain, looking at the facts, this is a no. We should not allow this. This is dangerous. This is wrong. And I would think—I cannot speak to the heart, but I would think that your heart and that your conscience and the reason that so many Members have struggled so hard with this—and I know they have, people who I know believe deeply in this right of privacy and the right to abortion as enumerated in Roe versus Wade, that they have made their moral judgment that this is OK, but even to those Members this stirs a disquiet. This stirs some uncomfortableness in them. Follow your heart. Your brain is there. If you look at the facts, the brain is going to be there. The only thing stopping you is your heart. Open your heart to these babies. Do not let this kind of barbarism continue. Stop the murder, stop the infanticide, and you will not be violating Roe versus Wade, not one word of it.

So as we start this debate tomorrow, I intend to debate the facts. I intend to stand up and go through all of the arguments not only on this procedure but on Senator DASCHLE's amendment, Senator BOXER's amendment, and talk about why those two amendments, particularly the Daschle amendment, I might add, not only is a sham in the sense it is just political cover, which is exactly what it is, it does not accomplish anything. The Daschle amendment which we will debate, I am sure, tomorrow will not stop one partial birth abortion, not one. The Daschle amendment will not stop any abortion. In fact, I will argue tomorrow, and I think I can point out clearly from the language of the text, the Daschle amendment expands Roe versus Wade. Yes, this amendment which is supposed to be a compromise—interesting we use the term ''compromise'' when the Democratic leader never talked to anybody on our side of the issue. You would think when you are trying to compromise with someone you would talk to the other side in reaching a compromise.

That did not happen. I did not receive one phone call or even the hint of a phone call. No one else that I know of who supports the bill—of the 42 cosponsors of the bill, it is my understanding none of them received a phone call. And so this compromise, which was drafted by people who oppose this bill to give political cover by saying things like, well, we are going to ban all postviability abortion, then leaves it to the abortionist to decide what is viable and what is a health exception because they have a health exception—we will ban all postviability abortions except for life and health. Who determines health? The person performing the abortion.

Wait a minute. Let me get this straight. You have someone performing an abortion. They are doing it. They are performing an abortion on a client. They are killing a baby. After they finish killing the baby, then they have to certify whether this baby was either viable or there was an exception for the life or health of the mother.

Put yourself in the position of the abortionist. Are you going to say the baby was viable and I killed it? There

was no health exception and I went ahead and killed the baby. Raise your hands. How many people think that the abortionist is going to claim that they violated the law? Because they are the only ones who certify to it. No one else can. Many times I have seen in the paper this debate has been analogized to the debate on the second amendment, the right to bear arms.

Let me give you this analogy. It is like passing a piece of legislation on assault weapons. That was a very popular topic. It is like passing a piece of legislation on assault weapons and saying that the gun dealer will define what an assault weapon is for purposes of whether they break the law.

That is exactly what this bill does. It allows the doctor to define what the law is, in other words, what the exceptions to the law are, and no mentally competent abortionist who has just aborted a baby is going to claim they broke the law, just like no mentally competent arms dealer is going to sell a howitzer and say it is an assault weapon. They are not going to say it is an assault weapon. I broke the law. You let me certify it. A howitzer is not an assault weapon. And under the Daschle bill, if we could apply it to guns, the arms dealer is OK. Wait a minute. We have the certification here. No problem. He certified it is not a howitzer. He said it is not an assault weapon. He said it is something else.

Again, just remember the people offering this amendment have a 100 percent voting record against pro-life issues. They have vehemently opposed this bill from day one. You can always tell the validity of this kind of legislation by who supports and who opposes.

Now, you would think that an industry—and that is what abortion, unfortunately, has turned into with 1.5 million a year. It is an industry. You would think that an industry that has gone to tremendous lengths and expense to oppose a ban on a procedure which they admit is infrequent, that does not happen very often, that is only an alternative and others could be done in place of it, that they argue is not going to stop one abortion, that they would fight vehemently against this that will not, in their own words, stop one abortion, they argue against this, yet they support Senator DASCHLE's proposed amendment.

Now, wait a minute. If Senator DASCHLE's proposal actually stopped abortion, do you think they would support it? I think you can answer that for yourself. The people who oppose it are people like myself who understand what it is. It is a sham. The proposal does nothing except one potentially very dangerous thing. By giving the abortionist the right to determine what health and viability is, you expand Roe versus Wade because under Roe versus Wade at least third-trimester babies are somewhat protected. Under the DASCHLE proposal, there is no protection, none. It is whatever the abortionist wants to do and the mother agrees to do at any time. Oh, you can probably string the viability issue along to 35 or 36 weeks and you probably have to admit that after 35 weeks that baby is viable. But the health, there is all sorts of health things that can go on even at that late time.

So I would just caution my colleagues who are considering this legislation that this is a real change in the law. This will have an impact on stopping a procedure that has no place in American society. The Daschle proposal not only does not change the face as far as the existing rights of abortionists and abortion, I have argued and will continue to argue that it expands the right to abortion. Anyone voting for the amendment of the Senator from South Dakota will vote to strike this procedure—in other words, vote against this procedure because his amendment which will be offered tomorrow strikes this procedure from the bill. In other words, cuts it, amends it out and replaces it, substitutes it with his phony ban which not only does not ban anything but expands the right to an abortion.

So I would just caution Members when they vote on Senator DASCHLE's amendment that they are doing two things, one of which they will admit they are doing. They are getting rid of this legislation. That is No. 1. So they will be voting against this procedure being banned. And No. 2, they will be expanding the rights of abortionists and abortion beyond what Roe versus Wade currently does by allowing the abortionist to have complete authority over what is a health exception, what is viability.

So, this is really a very clear debate, and we will commence tomorrow in formality between those who want to at least take a procedure and say this goes too far, that the right to an abortion is not so absolute as to allow this kind of barbarism to occur, and others who believe that Roe versus Wade did not go far enough. In spite of all the rhetoric we will hear tomorrow, the bottom line, with the amendment of the Senator from South Dakota, is that he will be arguing in fact—not by his words, because I am sure he will not agree with that—but in fact—read the language, his amendment will loudly say that Roe versus Wade is not broad enough, that we need more access to abortion than we have today.

I think, of anything that I have learned in dealing with this issue, particularly when it comes to children who are in utero, with disabilities, that the issue is not the ability to get an abortion in this country. If you have a child with a disability, and it is diagnosed in utero, I guarantee not only will the abortion option be made available to you, because they are legally required to do that, but if they see a badly deformed baby, they will do everything, most of the physicians, most genetic counselors, will do everything to encourage you to have an abortion.

I will talk about one such instance tomorrow. For those Members I spoke about earlier who can come to terms with this debate on the intellectual level and have trouble crossing the threshold of the heart, I will put a face on partial-birth abortion. It will put a face on what is going on out in our country, with doctors who are so afraid of malpractice, so afraid of difficult and complicated deliveries that they choose the easy way out. ''Let's get her to abort the baby now so we don't have to deal with this.''

Many of you are thinking, ''Oh, I can't believe that.'' Believe it. Believe it. It happens every day. You do not see any wrongful death suits, do you, against abortionists for terminating a pregnancy? I am not aware of any. But you will see wrongful birth suits for children born, and their parents, incredibly, believe that their child was better off dead than born.

So, for doctors, as normal human beings, risk averse, it is easier to abort. You can't get sued when you abort. They sign all these waivers and consents. We will be fine. But they can sue us if we do not do everything we can to get them to abort beforehand and we have a complicated delivery and things happen, or the baby is deformed and we did not explain maybe well enough how deformed the baby was.

I would argue it is easier to get an abortion in this country when you are carrying a child with a fetal abnormality than it is to find a doctor who will deliver it. I will tell you a story tomorrow of exactly that case. I am sure there are other cases out there. In fact, I know there are other cases out there.

It goes back to the point I was making. Not only do we as a society, but unfortunately the people who are most responsible for delivering our children become so callous, many of them—not all of them. Certainly not all of them. I hope most would understand the significance of a human life and protect it and honor it and dignify it. But, sadly, that is not the case in far too many instances with the professionals in the field of genetics counseling.

My father-in-law, Dr. Kenneth Garver, went into genetic counseling when he was a pediatrician in Penn Hills, PA. He decided to go into genetic counseling and medical genetics. I know one of the reasons that drove him to do so was not only the fascinating developments in medical genetics, which were certainly a lure to someone as bright as he and as interested as he was in the subject, but a fear, that has been borne out to be a legitimate fear, that the people who have been drawn to that field are people who do not believe that that baby has a right to life, who very much believe in abortion and counsel for it and, in far too many cases, encourage it. It is a field that he got into because he wanted at least someone—someone—where men and women who are going through a difficult pregnancy could come and not be browbeaten into having an abortion.

You say, ''Oh, Senator, you are being extreme here.'' I will tell you the story

of little Donna Joy Watts and you tell me how extreme I am. And I will tell the stories of people who have written to me and talked to me and called me and e-mailed me about situation after situation where those same set of facts have come forward. What have we come to when we encourage people who desperately want to hold onto their children that this is the only way?

Some will say it is by ignorance. I suggest in many cases it is ignorance, but in many cases it is ignorance of convenience that a lot of these physicians would just rather not have to deal with the situation. So the first knee-jerk reaction is, ''Well, the baby is not going to live long. Abort it.'' Or, ''The baby is going to have all sorts of complications. Abort it.''

All we are trying to do here is to say stop the infanticide. That is the term used by the Senator from New York, Senator MOYNIHAN, and I believe the Senator from Pennsylvania, Senator SPECTER—both of whom are generally on the opposite side of the issue on the issue of abortion. But they recognize that when a baby is outside the mother's womb and, as nurse Brenda Shafer said, moving its arms and legs, in the case that she described, the partial-birth abortion she described, the baby had the face of an angel. It was a perfectly healthy, normal baby.

It thought—and yes, thought, because babies have brains; they are human beings—thought as it was leaving this environment that was so warm and protected, little did it know that it would meet with this kind of brutality. Folks, it's not just once, or twice, or 10, or 20, or 100, or 500—thousands. Untold thousands.

I am hopeful that, as a result of all the things that were discussed for the past several months as a result of the statements by Ron Fitzsimmons, Members of this Senate will look again, look at this procedure, look at the consequences, real consequences of what the U.S. Senate and the Government of the United States will convey to the young people of our country, to any person in our country, that we will allow these innocent babies to be murdered like this.

If we send that kind of message, I guarantee I will be down here when one of the Senators who did not support this stands up and beats his breast, complaining about why the crime rate is so high, why there is no respect for property, why there is no respect for life, why there is no respect for—you name it.

Kids aren't dumb. They pay attention. I have a 6-year-old and a 4-year-old and a 1-year-old. It frightens me how much they pay attention to everything you do, whether you know it or not. They pick up so much.

You see yourself. You know. You see yourself in your kids so much you just don't even realize all the little things that you do that they see. They will see this. They will understand what this means. They will understand that life is not important, that, unless you are big, strong, healthy, able to protect yourself, there is no protection. It is survival of the fittest. We wonder why we have a cynical generation X; everyone believes they are out for themselves, that everyone does things in their own self-interest. What could be more in self-interest than this? What can be more selfish than this? What kind of message are we conveying? This is ultimate selfishness. It was not convenient. I was not ready. I—I—I—I.

This is a baby. It is not ''I,'' it is ''we.'' But we have told the message to the young people, only ''I'' matters. Then we wonder why they feel the way they do. We wonder why they act the way they do. We wonder what has happened to our culture, what has happened to our society. You need only look this far. You need only look at the selfishness, the individual self-centeredness of this procedure. A procedure we would not do on Jeffrey Dahmer, a procedure we would not do on the worst criminal in America, we will do on a healthy little baby.

I hope the Senate says no. I hope the Senate can just muster the moral courage to say no and live up to the dignity of this place. It is an impressive place. Great men and great women have stood in this hall and fought for noble causes. I cannot think of any more noble a cause than protecting a helpless, beautiful—whether deformed or not, in the eyes of God, beautiful baby.

I ask everyone within the sound of my voice to pray that that happens, that the Senate says no more, this is where we begin to draw the line. I ask you not only to contact your Senators by e-mail or write or call or drop by their offices, I ask you to pray that somehow their eyes will open to what the consequences of our actions are, what it means to us as a society, as a culture. What the reporters are writing today is this bill will fall short of the 67 votes needed to override the President's veto. If you do, those things I have asked, who knows?

Mr. President, I yield the floor.

CONGRATULATIONS TO FATHER THOMAS J. DUGGAN ON HIS 50TH YEAR IN THE PRIESTHOOD

Mr. ASHCROFT. Mr. President, I rise today to congratulate Father Thomas J. Duggan as he celebrates 50 years as a priest. I want to commend him for the outstanding service he provides to the Catholic Church in the central Missouri area.

This historic occasion commemorates Father Duggan's labor both now and in days past. His 50 years of dedication have served many important missions: From caring for young World War II victims in the Manchester-Liverpool area of England to serving, since 1960, the diocese of Jefferson City. The high standards he has been able to maintain are a tribute to his faithfulness. As our Nation looks increasingly for moral guidance in this period of moral decay, his example provides a standard for others to follow.

I wish Father Duggan a memorable celebration as he renews his commitment to the redemptive mission of Christ. May God bless his ministry with many more years of celebrations.

HONORING THE 200 YEARS OF MARRIAGE OF THE CHILDREN OF MORRIS AND IDA MILLER

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor the children of Morris and Ida Miller, who will celebrate together 200 years of marriage:

Son—Dennis and Marcella Miller, married June 7, 1946; Daughter—Eileen and Bill Keehr, married April 8, 1947; Daughter—Melda and Merwin Miller, married July 3, 1947; Son—Loren and Miriam Miller of Bois D'Arc, Missouri, married September 1, 1947.

My wife, Janet, and I look forward to the day we can celebrate a similar milestone. These families' commitment to the principles and values of their marriage deserves to be saluted and recognized.

HONORING THE BARLOWS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Harold and Helen Barlow of Raytown, MO, who on May 17, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Barlows' commitment to the principles and values of their marriage deserves to be saluted and recognized.

LAUREN'S RUN AGAINST PEDIATRIC CANCER

Mr. COVERDELL. Mr. President, it is a great honor for me to draw the attention of my distinguished colleagues

to a very special event which will take place in Atlanta this coming Sunday, May 18—the Fifth Annual Lauren's Run.

Lauren's Run is a fantastic kids-only fun run which is held every year at Zoo Atlanta. The purpose of the event is to raise funds for the Lauren Zagoria Pediatric Cancer Research Fellowship at City of Hope National Medical Center in Duarte, CA. The fellowship assists in the fight against pediatric cancer in all its forms through advanced research and clinical treatments at City of Hope, an institution renowned for the compassionate care it brings to children suffering from life-threatening diseases.

Mr. President, all of us in this body have undoubtedly devoted ourselves at one time or another to worthy causes and humanitarian endeavors. But in my opinion, Lauren's Run is a truly special cause, and this is so for two reasons.

First, because it honors a very special and beautiful little girl named Lauren Zagoria who was diagnosed when she was only 21 months old with neuroblastoma, a rare and fatal form of pediatric cancer. Lauren's parents, Janis and Marvin Zagoria, watched as their precious daughter was transformed not only by the ravages of the disease, but also by the ordeal of radiation treatments, bone marrow biopsies, and surgery. As Janis and Marvin have written about Laura, ''She never complained; she never quit; she never stopped loving or trusting those who cared for her. After 14 months of struggling, the disease was just too big for one little girl.''

Lauren's Run was borne of that child's tragic and painful struggle. Determined to honor Lauren's life and to sustain her legacy, Janis and Marvin Zagoria began to lay the groundwork for the children's run just 2 months after her death in March 1992. The first Lauren's Run was held in 1993.

I will have the honor of attending the Fifth Annual Lauren's Run on May 18, and I will be presenting an American Hero award to Janis and Marvin Zagoria on that occasion. They are truly two wonderful points of light—people who inspire others in their community to do what is right on behalf of those in need.

Mr. President, the other reason that I believe Lauren's Run is a special cause is because little Lauren Zagoria could have been any child in America today. We owe it to Lauren and to all the children we know and love to do everything in our power to eradicate the scourge of pediatric cancer. At City of Hope, pioneering work is underway to increase the long-term survival rate of children suffering from such illnesses. There is hope indeed that one day we may overcome the tragedy of pediatric cancer—provided that we open our hearts and, yes, our pocketbooks to enable research to discover the cures which are surely within reach.

Mr. President, I ask all of my colleagues to join me in honoring the memory of Lauren Zagoria and the work of two great Americans, Janis and Marvin Zagoria. And I ask that this body recognize the special significance and importance of the Fifth Annual Lauren's Run on May 18 in Atlanta.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 12, 1997, the Federal debt stood at $5,344,444,824,118.40. (Five trillion, three hundred forty-four billion, four hundred forty-four million, eight hundred twenty-four thousand, one hundred eighteen dollars and forty cents)

Five years ago, May 12, 1992, the Federal debt stood at $3,886,829,000,000. (Three trillion, eight hundred eighty-six billion, eight hundred twenty-nine million)

Ten years ago, May 12, 1987, the Federal debt stood at $2,271,664,000,000. (Two trillion, two hundred seventy-one billion, six hundred sixty-four million)

Fifteen years ago, May 12, 1982, the Federal debt stood at $1,060,830,000,000. (One trillion, sixty billion, eight hundred thirty million)

Twenty-five years ago, May 12, 1972, the federal debt stood at $427,349,000,000 (Four hundred twenty-seven billion, three hundred forty-nine million) which reflects a debt increase of nearly $5 trillion—$4,917,095,824,118.40 (Four trillion, nine hundred seventeen billion, ninety-five million, eight hundred twenty-four thousand, one hundred eighteen dollars and forty cents) during the past 25 years.

NET DAYS

Mr. KENNEDY. Mr. President, last year Massachusetts was ranked 48th in the Nation in networked classrooms. Only 30 percent—700 out of our more than 2,400 schools—had adequate computer technology and wiring. In a State with such a critical mass of knowledge-based industries requiring a highly-trained, highly skilled work force, this was unacceptable.

So in May 1996, we created the MassNetworks Educational Partnership as a nonprofit collaborative effort to assist our schools in becoming wired to the Internet, and to coordinate what are now called NetDays not only in Massachusetts but all across the country.

We began this effort, to be sure, with an advantage over most other States. Our information technology industries have grown rapidly in recent years. We enjoy strong labor unions and highly dedicated teachers, principals and superintendents, which have combined their expertise to allow us to accomplish much in a brief amount of time.

For our two State NetDays since last May, we have had more than 14,000 volunteers help wire over 800 additional schools in Massachusetts. These volunteers, aided by 15 million dollars' worth of donated and discounted goods, services, and technical support, already have had an enormous impact on the future of Massachusetts. We have truly become a model to the Nation.

However, this effort is not limited to these two NetDays, and we are far from finished. All across the State, parents, children, educators, labor leaders, businesspeople, public servants, and others who care so deeply about education will be continuing to work together to wire more schools, train more teachers and install more hardware throughout the rest of the school year and summer.

The investment we are making will continue to pay off in better results in our schools—students with sharper skills, improved grades, lower absenteeism, improved grades, reduced dropout rates, and improved standards of living when they enter the work force. Studies show that in the year 2000, 70 percent all new jobs will require the type of high-technology skills that only 20 percent of our work force currently possess. If we are to succeed in our endeavor, we must prepare our children with the knowledge they need to be competitive in the next century.

Toward that end, I will work to help Massachusetts be the first State in the Nation to meet President Clinton's goal of wiring all of America's schools to the Internet by the year 2000.

The Internet is the ticket to the information superhighway. The effort taking place in Massachusetts is putting this incredible resource within reach of all students. I strongly commend all those involved.

Education is one of the best investments we can make in the future of this State, and wiring students to the Internet is one of the wisest forms our investment can take. The Internet is the blackboard of the 21st century, and we should be prepared to use it to the fullest of our capability. The Internet is the newest world of information, and the newest frontier to conquer. Much like the shot heard around the world, our dedication to our students must be heard all over the globe.

Ultimately, the strength of this effort comes not from computers and wire, but from our ability to help schools teach and help students learn in new ways. I am confident that we will make the most of the tremendous opportunity that is at hand.

FAMILY CHILD CARE APPRECIATION DAY

Mr. HATCH. Mr. President last Friday, May 9, was ''Family Child Care Provider Appreciation Day'' in Utah and perhaps in other States as well. It is fitting to pay tribute to family-based child care providers who are an essential component of our child care system, both in Utah and throughout the United States.

Family Child Care Providers are self-employed business people caring for up to six children at a time in their own homes for as much as 50 hours per

week. Utah has over 2,000 family child care homes which service about half of the children in child care. Currently, it is estimated that 65 percent of mothers with children under 5 work outside the home, so the need certainly exists for a variety of child care options. Child care provided in individual family homes is one such option.

Some parents for a variety of reasons prefer home environments for their children. Debbie, a child care provider in West Valley City, UT, watched a 2-year-old who was on a feeding tube. It is often very difficult to find care for sick or disabled children; but, in the flexible setting of her home, Debbie was able to provide the personal attention and care needed, making this particular child's experience as positive as possible.

Vicki is a family child care provider in Cedar City, UT. She has provided help for parents who are trying to rebuild their lives. In one case, she provided care for a little girl while her father was in jail and her mother was working, but not earning a lot. Vicki says this family is doing better now. The father is out of jail and holding down a job. Vicki is still caring for their son while his mother works. Vicki says she likes to help families to get off of welfare and to build a better future.

Family child care providers help families like these to achieve the American Dream. Family child care not only helps parents in the work force with peace of mind, but it also provides a supplemental income for mothers who want to be home with their own children.

But do not confuse family child care providers with babysitters. Family care providers in Utah follow the highest of standards; they renew their licences every year by taking 12 credit hours of classes and updating certification in both CPR and first aid on a yearly basis. Utah has over 2,000 family child care homes which service about half of the children in child care. These statistics as well as the level of professionalism in which family child care providers operate is very important when it comes to quality care for our children.

The future of our country depends on the quality of the early childhood experiences provided to young children today. Family child care providers provide important choices for parents who must work. As a strong advocate for putting our children first, I am pleased to honor these outstanding citizens in our communities who are making such a difference. I am happy to join in recognizing their achievements as well as their importance as part of our child care system.

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 34

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of November 14, 1996, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) (IEEPA). This report covers events through March 31, 1997. My last report, dated November 14, 1996, covered events through September 16, 1996.

1. The Iranian Assets Control Regulations, 31 CFR Part 535 (IACR), were amended on October 21, 1996 (61 *Fed. Reg.* 54936, October 23, 1996), to implement section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by adjusting for inflation the amount of the civil monetary penalties that may be assessed under the Regulations. The amendment increases the maximum civil monetary penalty provided in the Regulations from $10,000 to $11,000 per violation.

The amended Regulations also reflect an amendment to 18 U.S.C. 1001 contained in section 330016(1)(L) of Public Law 103–322, September 13, 1994, 108 Stat. 2147. Finally, the amendment notes the availability of higher criminal fines for violations of IEEPA pursuant to the formulas set forth in 18 U.S.C. 3571. A copy of the amendment is attached.

2. The Iran-United States Claims Tribunal (the ''Tribunal''), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered eight awards. This brings the total number of awards rendered to 579, the majority of which have been in favor of U.S. claimants. As of March 24, 1997, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was $2,424,959,689.37.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 24, 1997, the total amount in the Security Account was $183,818,133.20, and the total amount in the Interest Account was $12,053,880.39. Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligation under the Algiers Accords to replenish the Security Account. Iran filed its Rejoinder on April 8, 1997.

The United States also continues to pursue Case A/29 to require Iran to meets its obligation of timely payment of its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. The United States filed its Reply to the Iranian Statement of Defense on October 11, 1996.

Also since my last report, the United States appointed Richard Mosk as one of the three U.S. arbitrators on the Tribunal. Judge Mosk, who has previously served on the Tribunal and will be joining the Tribunal officially in May of this year, will replace Judge Richard Allison, who has served on the Tribunal since 1988.

3. The Department of State continues to pursue other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

On December 3, 1996, the Tribunal issued its award in Case B/36, the U.S. claim for amounts due from Iran under two World War II military surplus property sales agreements. While the Tribunal dismissed the U.S. claim as to one of the agreements on jurisdictional grounds, it found Iran liable for breach of the second (and larger) agreement and ordered Iran to pay the United States principal and interest in the amount of $43,843,826.89. Following payment of the award, Iran requested the Tribunal to reconsider both the merits of the case and the calculation of interest; Iran's request was denied by the Tribunal on March 17, 1997.

Under the February 22, 1996, agreement that settled the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (reported in my report of May 17, 1996), the United States agreed to make ex gratia payments to the families of Iranian victims of the 1988 Iran Air 655 shootdown and a fund was established to pay Iranian bank debt owed to U.S. nationals. As of March 17, 1997, payments were authorized to be made to surviving family members of 125 Iranian victims of the aerial incident, totaling $29,100,000.00. In addition, payment of 28 claims by U.S. nationals against Iranian banks, totaling $9,002,738.45 was authorized.

On December 12, 1996, the Department of State filed the U.S. Hearing Memorial and Evidence on Liability in Case A/11. In this case, Iran alleges that the United States failed to perform its obligations under Paragraphs 12–14 of the Algiers Accords, relating to the return to Iran of assets of the late Shah and his close relatives. A hearing date has yet to be scheduled.

On October 9, 1996, the Tribunal dismissed Case B/58, Iran's claim for damages arising out of the U.S. operation of Iran's southern railways during the Second World War. The Tribunal held that it lacked jurisdiction over the claim under Article II, paragraph two, of the Claims Settlement Declaration.

4. Since my last report, the Tribunal conducted two hearings and issued

awards in six private claims. On February 24–25, 1997, Chamber One held a hearing in a dual national claim, *G.E. Davidson* v. *The Islamic Republic of Iran*, Claim No. 457. The claimant is requesting compensation for real property that he claims was expropriated by the Government of Iran. On October 24, 1996, Chamber Two held a hearing in Case 274, *Monemi* v. *The Islamic Republic of Iran*, also concerning the claim of a dual national.

On December 2, 1996, Chamber Three issued a decision in *Johangir & Jila Mohtadi* v. *the Islamic Republic of Iran* (AWD 573–271–3), awarding the claimants $510,000 plus interest for Iran's interference with the claimants' property rights in real property in Velenjak. The claimants also were awarded $15,000 in costs. On December 10, 1996, Chamber Three issued a decision in *Reza Nemazee* v. *The Islamic Republic of Iran* (AWD 575–4–3), dismissing the expropriation claim for lack of proof. On February 25, 1997, Chamber Three issued a decision in *Dadras Int'l* v. *The Islamic Republic of Iran* (AWD 578–214–3), dismissing the claim against Kan Residential Corp. for failure to prove that it is an ''agency, instrumentality, or entity controlled by the Government of Iran'' and dismissing the claim against Iran for failure to prove expropriation or other measures affecting property rights. Dadras had previously received a substantial recovery pursuant to a partial award. On March 26, 1997, Chamber Two issued a final award in Case 389, *Westinghouse Electric Corp.* v. *The Islamic Republic of Iran Air Force* (AWD 579–389–2), awarding Westinghouse $2,553,930.25 plus interest in damages arising from the Iranian Air Force's breach of contract with Westinghouse.

Finally, there were two settlements of claims of dual nationals, which resulted in awards on agreed terms. They are *Dora Elghanayan, et al.* v. *The Islamic Republic of Iran* (AAT 576–800/801/802/803/804–3), in which Iran agreed to pay the claimants $3,150,000, and *Lilly Mythra Fallah Lawrence* v. *The Islamic Republic of Iran* (AAT 577–390/381–1), in which Iran agreed to pay the claimant $1,000,000.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1997.*

MESSAGES FROM THE HOUSE

At 5:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 66. Concurrent resolution authorizing the use of the Capitol grounds for the sixteenth annual National Peace Officers' Memorial Service.

At 6:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5. An act to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

MEASURES REFERRED

The following concurrent resolution, previously from the House for the concurrence of the Senate, was read, and referred as indicated:

H. Con Res. 8. Concurrent resolution recognizing the significance of maintaining the health and stability of coral reef ecosystems; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1851. A communication from the Chief Financial Officer of the Department of State, transmitting, pursuant to law, a rule entitled ''Visas'' received on April 30, 1997; to the Committee on Foreign Relations.

EC–1852. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1853. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the certification of the proposed issuance of an export license; to the Committee on Foreign Relations.

EC–1854. A communication from the President of the Inter-American Foundation, transmitting, a draft of proposed legislation to authorize funds for fiscal year 1999; to the Committee on Foreign Relations.

EC–1855. A communication from the Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, fifteen rules including rules relative to FM radio stations; to the Committee on Commerce, Science, and Transportation.

EC–1856. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, thirty-nine rules including a rule entitled ''Public Availability of Information'' (RIN2105–AC58, 2125–AE12, 2115–AA97, 2115–AE47, 2120–AF08, 2120–AA66, 2120–AA64, 2120–A64, 2120–AG24, 2105–AB73, 2105–AC36, 2115–AA97, 2115–AE46, 2115–AF24, 2115–AE84, 2137–AD00, 96–ASW–36, 96–ASW–35, 96–ASW–34, 2120–AG17); to the Committee on Commerce, Science, and Transportation.

EC–1857. A communication from the Acting Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration, transmitting jointly, pursuant to law, a report on subsonic noise reduction technology; to the Committee on Commerce, Science, and Transportation.

EC–1858. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report on polar issues; to the Committee on Commerce, Science, and Transportation.

EC–1859. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''The Saint Lawrence Seaway Development Corporation Performance Based Organization Act of 1997''; to the Committee on Commerce, Science, and Transportation.

EC–1860. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to authorize certain programs of the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–1861. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the guarantee of obligations; to the Committee on Commerce, Science, and Transportation.

EC–1862. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Maritime Administration for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–1863. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''The Automotive Fuel Economy Program''; to the Committee on Commerce, Science, and Transportation.

EC–1864. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, eight rules including a rule entitled ''Fisheries Off West Coast and Western Pacific States'' (RIN0648–AJ09, AJ39); to the Committee on Commerce, Science, and Transportation.

EC–1865. A communication from the Acting Assistant Administrator For Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled ''Financial Assistance for Research and Development Projects'' (RIN0648–ZA09) received on May 5, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1866. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, three rules including a rule entitled ''Fisheries Off West Coast States'' (RIN0648–AI19, 0648–XX77); to the Committee on Commerce, Science, and Transportation.

EC–1867. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, three rules including a rule entitled ''Fisheries in the Exclusive Economic Zone Off Alaska'' (RIN064–AJ35, ZA28); to the Committee on Commerce, Science, and Transportation.

EC–1868. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled ''Fisheries Off West Coast and Western Pacific'' received on April 25, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1869. A communication from the Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled ''Schedule of Fees'' received on May 7, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1870. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska''; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 736. A bill to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 737. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 736. A bill to convey real property within the Carlsbad project in New Mexico to the Carlsbad Irrigation District; to the Committee on Energy and Natural Resources.

THE CARLSBAD IRRIGATION PROJECT ACQUIRED LAND TRANSFER ACT

● Mr. DOMENICI. Mr. President, today I am introducing legislation that will convey tracts of land, referred to as ''acquired lands,'' to the Carlsbad Irrigation District in New Mexico. These are lands that were once owned by the beneficiaries of the irrigation project, and acquired by the Federal Government when the Bureau of Reclamation assumed the responsibility of construction and operation of the irrigation project in the early part of this century. Since that time, the Carlsbad Irrigation District has repaid its indebtedness to the Federal Government, which included not only its contractual share of construction costs, but also all costs associated with the project land and facilities that were acquired from the project beneficiaries.

This legislation is specific to the Carlsbad project in New Mexico, and directs the Carlsbad Irrigation District to continue to manage the lands as they have been in the past, for the purposes for which the project was constructed. It will accomplish three things: First, convey title to acquired lands and facilities to the District; second, allow the District to assume the management of leases and the benefits of the receipts from these acquired lands; and third, provide authority for the Bureau of Reclamation to cooperate with the Carlsbad Irrigation District on water conservation projects at the Carlsbad project. This bill protects the interests that the State of New Mexico has in some of those lands.

During the 104th Congress, the Carlsbad Irrigation District presented testimony related to the transfer of acquired lands before the Committee on Energy and Natural Resources on one occasion, and before the House Committee on Resources on two occasions. Additionally, the administration expressed on several occasions before these two committees that they want to move forward with acquired land transfers where they make sense. The Commissioner of the Bureau of Reclamation, Eluid Martinez, has informed the district and me that he believes that the Carlsbad project is one of several projects where the Bureau would like to pursue transfer opportunities. With this in mind, I believe that the legislation I am introducing today will provide the Bureau with the ability to accomplish their stated goal in a fair and equitable manner.

Mr. President, I understand that similar legislation will soon be introduced in the House of Representatives by Congressman JOE SKEEN, and I am hopeful that we will be able to move this bill through Congress, and coordinate our efforts with the administration's stated objectives. I encourage my colleagues to support this legislation, and ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Carlsbad Irrigation Project Acquired Land Transfer Act''.

SEC. 2. CONVEYANCE.

(a) LANDS AND FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the conditions set forth in subsection (c) and section 2(b), the Secretary of the Interior (in this Act referred to as the ''Secretary'') is hereby authorized to convey all right, title, and interest of the United States in and to the lands described in subsection (b) (in this Act referred to as the ''acquired lands'') in addition to all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume to the Carlsbad Irrigation District (a quasi-municipal corporation formed under the laws of the State of New Mexico and in this Act referred to as the ''District'').

(2) LIMITATIONS.—

(A) The Secretary shall retain title to the surface estate of such acquired lands which are located under the footprint of Brantley and Avalon dams or any other project dam or reservoir diversion structure.

(B) The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(b) ACQUIRED LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy County, New Mexico, described as the acquired lands in section (7) of the ''Status of Lands and Title Report: Carlsbad Project'' as reported by the Bureau of Reclamation in 1978.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—Any conveyance of the acquired lands under this Act shall be subject to the following terms and conditions:

(1) The conveyed lands shall continue to be managed and used by the District for the purposes for which the Carlsbad Project was authorized, consistent with existing management of such lands and other adjacent project lands.

(2) Except as provided in paragraph (3), the District shall assume all rights and obligations of the United States under—

(A) the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes; and

(B) the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(3) EXCEPTIONS.—In relation to agreements referred to in paragraph (2)—

(A) The District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement; and

(B) The District shall not be entitled to any receipts or revenues generated as a result of either agreement.

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Secretary should complete the conveyance authorized by this Act, including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. et seq.) within 9 months of the date of enactment of this Act.

(e) REPORT TO CONGRESS.—If the conveyance authorized by this Act is not completed by the Secretary within 9 months of the date of enactment of this Act, the Secretary shall prepare a report to the Congress which shall include a detailed explanation of problems that have been encountered in completion of the conveyance, and specific steps that the Secretary has taken or will take to complete the conveyance. The Secretary's report shall be transmitted to the Committee on Resources of the House of Representatives, and to the Committee on Energy and Natural Resources of the Senate within 30 days after the expiration of such 9 month period.

SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) IDENTIFICATION AND NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this Act, the Secretary of the Interior shall provide to the District a written identification of all mineral and grazing leases in effect on the acquired lands on the date of enactment of this Act, and the Secretary of the Interior shall notify all leaseholders of the conveyance authorized by this Act.

(b) MANAGEMENT OF MINERAL AND GRAZING LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the acquired lands conveyed under section 2, and shall be entitled to any receipts from such leases, licenses and permits accruing after the date of conveyance: *Provided,* That all such receipts shall be used for purposes for which the project was authorized. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project: *Provided further,* That all future mineral leases from acquired lands within a one mile radius of Brantley and Avalon dams shall subject to the approval of the Secretary prior to consummation of the lease.

(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMATION FUND.—Receipts paid into the reclamation fund which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) as amended shall be made available to the District as credits towards its ongoing operation and maintenance obligation to the United States until such credits are depleted: *Provided,* That immediately following the enactment of this Act, such receipts collected by the Minerals Management Service, not to exceed $200,000, shall be made available to the Secretary for the purpose of offsetting the actual cost of implementing this Act: *Provided further,* That any receipts collected by the Minerals Management Service, prior to the actual date of conveyance, which are in excess of $200,000 shall be deposited into the reclamation fund and added to existing construction credits to the Carlsbad Project.

SEC. 4. WATER CONSERVATION PRACTICES.

The Secretary, in cooperation with the District, is hereby authorized to expend not to exceed $100,000 annually, from amounts appropriated for operation and maintenance within the Bureau of Reclamation, for the purposes of implementing water conservation practices at the Carlsbad Irrigation Project, including but not limited to phreatophyte control: *Provided,* That matching funds shall be provided by the District in direct proportion to the amount of project lands held by the District in relation to withdrawn or other project lands held by the United States: *Provided further,* That nothing in this Act shall be construed to limit the ability of the District to voluntarily implement water conservation practices.●

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 737. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

CHINA TRADING RELATIONS LEGISLATION

Mr. CHAFEE. Mr. President, today I am joining with Senator BAUCUS to introduce legislation authorizing the President to extend most-favored-nation, or normal trading relations, status to China on a permanent basis.

Since 1989, Congress has engaged in an annual, and very public, debate about the extension of MFN to China. These debates have been highly charged. But over the years, the repetition of this debate has carried a heavy price tag, with little to no positive results to show for it.

In fact, the constant debate as to whether or not the United States should continue normal trade relations with China has come at great expense to the overall health of the bilateral relationship between these two great and powerful nations. And that, in turn, has had real—and negative—repercussions for the United States, its citizens, and even the Chinese people themselves. We need to look toward a day where this annual MFN rollercoaster will be replaced by a stable, long-term economic foundation between these two superpowers. It is toward that end that we are introducing this legislation.

CONDITIONING MFN IN ORDER TO INFLUENCE CHINA'S BEHAVIOR HAS NOT WORKED

China has received MFN treatment every year since 1980. In 1989, however, after the brutal suppression of demonstrators at Tiananmen Square, some legislators proposed trying to influence Chinese behavior by threatening to revoke China's MFN status, starting this cycle of highly charged—and often political—debates.

But is MFN an effective tool for influencing Chinese behavior, as those legislators hoped? No. We saw that all too clearly in 1993, when President Clinton attempted to condition further renewal upon improvements in human rights. Were there improvements during that time? No. Finally, in 1994 the President came to the conclusion that retaining MFN, rather than threatening its removal, ''offers us the best opportunity to lay the basis for long-term sustainable progress in human rights, and for the advancement of our other interests with China.''

It is clear that revoking MFN is not an effective tool for promoting change in China—a fact other nations recognized long ago. Therefore, we should begin removing MFN entirely from the debate, and eventually render it permanent.

ANNUAL MFN DEBATE OVERALL HAS NOT BEEN PRODUCTIVE FOR THE UNITED STATES–CHINA RELATIONSHIP

Not only is MFN status a poor tool for spurring change in China, but the annual debate itself has contributed to poor United States-China relations. By focusing solely on the renewal of MFN, we in the United States have found ourselves distracted from the larger, critically important issues involving the United States–China bilateral relationship. Indeed, I believe that for the past 8 years, the ability of the two nations to work together productively has been partly paralyzed by the ongoing MFN debate.

Progress on important matters—both those in which we and China have a common interest, such as stability in Asia, and those in which our two nations do not see eye to eye—such as international involvement in human rights—has not been helped by the continuing controversy over MFN. The Chinese, who, as history has shown, tend to react negatively to public confrontation, have been less open to working with the United States to address issues of common concern. The United States, which must continue to deal with China as an emerging superpower, has been forced on the defensive when dealing with the Chinese.

This state of affairs cannot continue indefinitely. We need to move toward removing MFN as a factor in our already complicated and complex bilateral relationship with China if we want to stabilize that relationship and make progress on issues that matter to the American public. Too much else is at stake—for both nations.

THE STABILITY OF THE UNITED STATES-CHINA RELATIONSHIP IS IMPORTANT FOR AMERICANS—AND FOR THE CHINESE PEOPLE

Why is a stable United States-China relationship important for Americans? For a number of reasons.

First, Americans traditionally have worked to promote democratic ideals around the globe. As a society, we have an interest in encouraging such ideals as respect for human rights in other nations. A solid, stable relationship with the Chinese can, over time, bring such improvements to pass—with great benefit for the Chinese people.

Second, American have a vested interest in promoting international security. Securing nuclear nonproliferation and defusing regional conflicts overseas mean a great deal to the overall well-being of Americans and their families. If we want to see these goals advanced, we must work with China, an emerging superpower.

Third, and very importantly, Americans have a direct economic tie to the Chinese economy. We now export some $12 billion worth of goods to China—exports that include plastic packaging systems made by the 125 employees at Marshall & Williams Co. in Providence, Rhode Island. And we import nearly four times as much—$46 billion—from China—imports that include toys for children. Not only do families across the United States buy those toys, but the 1,600 workers at Hasbro in Pawtucket, RI, rely on those sales to keep their company strong and their jobs in place. Clearly, there is much to do to address the enormous trade imbalance between our two nations. But notwithstanding that imbalance, the current level of the United States/China economic interaction is so significant that if it were disrupted, the negative repercussions for our own economy would be staggering.

In sum, we have many important challenges facing us that require a steady, stable United States/China relationship. Whether it is nuclear nonproliferation, adherence to human rights, security around the globe, protection of intellectual property, or the transition of Hong Kong, we must continue to work with the Chinese, using the tools of diplomacy and of laws that are tailored to those purposes.

PERMANENT MFN WILL BE ESPECIALLY APPROPRIATE AS CHINA ENTERS THE GLOBAL TRADING SYSTEM

The eventual adoption of permanent MFN for China is in the interests of the United States. Our actions today are

meant to encourage Congress and the administration to begin consideration of that next step. We do not expect or intend for this bill to be considered this year.

But our action does come at an important time. The Chinese Government now is taking steps to join the world community and its institutions. Chief among these steps is China's bid to join the global trading system known as the World Trade Organization. If successful, this move will bring China into line with the trading practices of the 120-plus nations that now are WTO members.

To be successful, China will have to agree to accede to the WTO on terms that are commercially viable—or to put it more simply, that are fair to other nations in terms of market access, nondiscrimination, enforcement, and other important areas. Should China enter the global trading system on such terms, it would be a natural point at which the United States could move forward with permanent MFN.

If we begin considering this issue now, it may ripen at a time that is beneficial to both the United States and China.

SUMMARY: PERMANENT MFN IS IN THE BEST INTEREST OF THE UNITED STATES

In sum, the permanent grant of MFN to China is in the best interest of the United States and her citizens. It will end for once and for all the annual debate that is actively hindering—not helping—the achievement of important American goals, thereby allowing the establishment of a stable relationship that would bring prosperity and growth to both nations. Over the next year, as China takes serious steps toward full integration in the global economy, the granting of permanent MFN will make more and more sense. We think the United States should begin laying the groundwork now, and we are introducing our bill today toward that end.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. FAIRCLOTH, the names of the Senator from Nevada [Mr. REID], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 50, a bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable tax credit for the expenses of an education at a 2-year college.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 294

At the request of Mrs. HUTCHISON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 294, a bill to amend chapter 51 of title 18, United States Code, to establish Federal penalties for the killing or attempted killing of a law enforcement officer of the District of Columbia, and for other purposes.

S. 369

At the request of Mr. JEFFORDS, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 369, a bill to amend section 1128B of the Social Security Act to repeal the criminal penalty for fraudulent disposition of assets in order to obtain medicaid benefits added by section 217 of the Health Insurance Portability and Accountability Act of 1996.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trail program.

S. 387

At the request of Mr. HATCH, the names of the Senator from Florida [Mr. MACK] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 422

At the request of Mr. DOMENICI, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 422, a bill to define the circumstances under which DNA samples may be collected, stored, and analyzed, and genetic information may be collected, stored, analyzed, and disclosed, to define the rights of individuals and persons with respect to genetic information, to define the responsibilities of persons with respect to genetic information, to protect individuals and families from genetic discrimination, to establish uniform rules that protect individual genetic privacy, and to establish effective mechanisms to enforce the rights and responsibilities established under this Act.

S. 456

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 456, a bill to establish a partnership to rebuild and modernize America's school facilities.

S. 460

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 460, bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 497

At the request of Mr. COVERDELL, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts and that require employees to pay union dues or fees as a condition of employment.

S. 586

At the request of Mr. MOYNIHAN, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 586, a bill to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes.

S. 609

At the request of Mr. KENNEDY, the names of the Senator from Georgia [Mr. CLELAND], the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 609, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies.

S. 693

At the request of Mr. D'AMATO, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 693, a bill to amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent.

S. 717

At the request of Mr. COVERDELL, the name was added as a cosponsor of S. 717, a bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Concurrent Resolution 21, a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

SENATE RESOLUTION 16

At the request of Mr. LUGAR, the name of the Senator from Arkansas

[Mr. HUTCHINSON] was withdrawn as a cosponsor of Senate Resolution 16, a resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax.

SENATE RESOLUTION 63

At the request of Mr. DOMENICI, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Texas [Mrs. HUTCHISON], the Senator from Georgia [Mr. COVERDELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nevada [Mr. REID], the Senator from Idaho [Mr. CRAIG], the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Florida [Mr. MACK], the Senator from Wyoming, [Mr. ENZI], the Senator from Ohio [Mr. DEWINE] were added as cosponsors of Senate Resolution Act 63, a resolution proclaiming the week of October 19 through October 25, 1997, as ''National Character Counts Week.''

SENATE RESOLUTION 85

At the request of Mr. GREGG, the names of the Senator from New Jersey, [Mr. TORRICELLI] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of Senate Resolution 85, a resolution expressing the sense of the Senate that individuals affected by breast cancer should not be alone in their fight against the disease.

AMENDMENTS SUBMITTED

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

JEFFORDS AMENDMENT NO. 242

Mr. JEFFORDS proposed an amendment to the bill (S. 717) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; as follows:

On page 3, strike the item relating to section 641 of the Individuals with Disabilities Education Act and insert the following:

''Sec. 641. State Interagency Coordinating Council.''

On page 3, strike the item relating to section 644 of the Individuals with Disabilities Education Act and insert the following:

''Sec. 644. Federal Interagency Coordinating Council.''

On page 19, line 19, strike ''Alaskan'' and insert ''Alaska''.

On page 26, line 4, strike ''are'' and insert ''is''.

On page 26, line 12, strike ''are'' and insert ''is''.

On page 26, line 15, strike ''include'' and insert ''includes''.

On page 35, line 5, strike ''identify'' and insert ''the identity of''.

On page 55, line 17, strike ''ages'' and insert ''aged''.

On page 55, line 19, insert ''the'' before ''Bureau''.

On page 94, line 24, strike ''Federal or State Supreme court'' and insert ''Federal court or a State's highest court''.

On page 102, strike line 3 and insert the following: ''(i) Notwithstanding clauses (ii) and''.

On page 140, line 15, strike ''team'' and insert ''Team''.

On page 140, line 22, strike ''team'' and insert ''Team''.

On page 177, line 8, strike ''661'' and insert ''661,''.

On page 196, line 18, strike ''allocations'' and insert ''allotments''.

On page 201, line 22, strike ''with disabilities'' after ''toddlers''.

On page 203, line 23, strike '', consistent with State law,'' after ''(a)(9)''.

On page 208, line 22, strike ''636(a)(10)'' and insert ''635(a)(10)''.

On page 216, line 6, strike ''the child'' and insert ''the infant or toddler''.

On page 216, line 7, strike ''the child'' and insert ''the infant or toddler''.

On page 221, line 5, strike ''A'' and insert ''At least one''.

On page 221, line 8, strike ''A'' and insert ''At least one''.

On page 226, line 4, strike ''paragraph'' and insert ''subsection''.

On page 226, line 7, strike ''allocated'' and insert ''distributed''.

On page 229, line 20, strike ''allocations'' and insert ''allotments''.

On page 229, line 24 and 25, strike ''allocations'' and insert ''allotments''.

On page 231, strike line 17, and insert the following ''ferred to as the ''Council'') and the chairperson of''.

On page 260, line 4, strike ''who'' and insert ''that''.

On page 267, line 15, strike ''paragraph'' before ''(1)''.

On page 326, between lines 11 and 12, insert the following:

''(D) SECTIONS 611 AND 619.—Sections 611 and 619, as amended by Title I, shall take effect beginning with funds appropriated for fiscal year 1998.''

GORTON (AND SMITH OF NEW HAMPSHIRE) AMENDMENT NO. 243

Mr. GORTON (for himself and Mr. SMITH of New Hampshire) proposed an amendment to the bill, S. 717, supra; as follows:

On page 169, between lines 11 and 12, insert the following:

''(10) UNIFORM DISCIPLINARY POLICIES.—Notwithstanding any other provision of this Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction to ensure the safety and appropriate educational atmosphere in its schools.''

On page 169, line 12, strike ''(10)'' and insert ''(11)''.

THE FAMILY FRIENDLY WORKPLACE ACT OF 1997

MURRAY AMENDMENT NO. 244

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill (S. 4) to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; as follows:

At the end, add the following:

TITLE II—SCHOOL INVOLVEMENT LEAVE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Time for Schools Act of 1997''.

SEC. 202. GENERAL REQUIREMENTS FOR LEAVE.

(a) ENTITLEMENT TO LEAVE.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

''(3) ENTITLEMENT TO SCHOOL INVOLVEMENT LEAVE.—

''(A) IN GENERAL.—Subject to section 103(f), an eligible employee shall be entitled to a total of 24 hours of leave during any 12-month period to participate in an activity of a school of a son or daughter of the employee, such as a parent-teacher conference or an interview for a school, or to participate in literacy training under a family literacy program.

''(B) DEFINITIONS.—In this paragraph:

''(i) FAMILY LITERACY PROGRAM.—The term 'family literacy program' means a program of services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

''(I) Interactive literacy activities between parents and their sons and daughters.

''(II) Training for parents on how to be the primary teacher for their sons and daughters and full partners in the education of their sons and daughters.

''(III) Parent literacy training.

''(IV) An age-appropriate education program for sons and daughters.

''(ii) LITERACY.—The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

''(I) to function on the job, in the family of the individual, and in society;

''(II) to achieve the goals of the individual; and

''(III) to develop the knowledge potential of the individual.

''(iii) SCHOOL.—The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility operated by a provider who meets the applicable State or local government licensing, certification, approval, or registration requirements, if any.

''(4) LIMITATION.—No employee may take more than a total of 12 workweeks of leave under paragraphs (1) and (3) during any 12-month period.''.

(b) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following: ''Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by inserting before the period the following: '', or for leave provided under subsection (a)(3) for any part of the 24-hour period of such leave under such subsection''.

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

''(3) NOTICE FOR SCHOOL INVOLVEMENT LEAVE.—In any case in which the necessity

for leave under subsection (a)(3) is foreseeable, the employee shall provide the employer with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employee shall provide such notice as is practicable.''.

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

''(f) CERTIFICATION FOR SCHOOL INVOLVEMENT LEAVE.—An employer may require that a request for leave under section 102(a)(3) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.''.

SEC. 203. SCHOOL INVOLVEMENT LEAVE FOR CIVIL SERVICE EMPLOYEES.

(a) ENTITLEMENT TO LEAVE.—Section 6382(a) of title 5, United States Code, is amended by adding at the end the following:

''(3)(A) Subject to section 6383(f), an employee shall be entitled to a total of 24 hours of leave during any 12-month period to participate in an activity of a school of a son or daughter of the employee, such as a parent-teacher conference or an interview for a school, or to participate in literacy training under a family literacy program.

''(B) In this paragraph:

''(i) The term 'family literacy program' means a program of services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

''(I) Interactive literacy activities between parents and their sons and daughters.

''(II) Training for parents on how to be the primary teacher for their sons and daughters and full partners in the education of their sons and daughters.

''(III) Parent literacy training.

''(IV) An age-appropriate education program for sons and daughters.

''(ii) The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

''(I) to function on the job, in the family of the individual, and in society;

''(II) to achieve the goals of the individual; and

''(III) to develop the knowledge potential of the individual.

''(iii) The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility operated by a provider who meets the applicable State or local government licensing, certification, approval, or registration requirements, if any.

''(4) No employee may take more than a total of 12 workweeks of leave under paragraphs (1) and (3) during any 12-month period.''.

(b) SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following: ''Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by inserting before '', except'' the following: '', or for leave provided under subsection (a)(3) any of the employee's accrued or accumulated annual leave under subchapter I for any part of the 24-hour period of such leave under such subsection''.

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following:

''(3) In any case in which the necessity for leave under subsection (a)(3) is foreseeable, the employee shall provide the employing agency with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employee shall provide such notice as is practicable.''.

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

''(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.''.

SEC. 204. EFFECTIVE DATE.

This title takes effect 120 days after the date of enactment of this Act.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

SMITH OF NEW HAMPSHIRE (AND GORTON) AMENDMENT NO. 245

Mr. SMITH of New Hampshire (and Mr. GORTON) proposed an amendment to the bill, S. 717, supra; as follows:

On page 156, between lines 8 and 9, insert the following:

''(I) LIMITATION ON AWARDS.—Notwithstanding any other provision of this Act (except as provided in subparagraph (C)), a court in issuing an order in any action filed pursuant to this Act that includes an award shall take into consideration the impact the award would have on the provision of education to all children who are students served by the State educational agency or local educational agency affected by the order.''.

THE FAMILY FRIENDLY WORKPLACE ACT OF 1997

McCAIN AMENDMENTS NOS. 246–252

(Ordered to lie on the table.)

Mr. MCCAIN submitted seven amendments intended to be proposed by him to the bill, S. 4, supra; as follows:

AMENDMENT NO. 246

On page 10, strike lines 4 through 7 and insert the following:

''(10) In this subsection—

''(A) the terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7); and

''(B) the term 'unduly disrupt the operations of the employer', used with respect to the use of compensatory time off by an employee of the employer, means create a situation in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

On page 23, strike line 23 and insert the following: has the meaning given the term in section 7(e).

''(10) UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.—The term ''unduly disrupt the operations of the employer', used with respect to the use of flexible credit hours by an employee of the employer, means create a situation in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

AMENDMENT NO. 247

On page 10, strike lines 4 through 7 and insert the following:

''(10) In this subsection—

''(A) the terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7); and

''(B) the term 'unduly disrupt the operations of the employer', used with respect to the use of compensatory time off by an employee of the employer, means create a situation (as determined by the employer, acting in good faith) in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

AMENDMENT NO. 248

On page 23, strike line 23 and insert the following: has the meaning given the term in section 7(e).

''(10) UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.—The term 'unduly disrupt the operations of the employer', used with respect to the use of flexible credit hours by an employee of the employer, means create a situation (as determined by the employer, acting in good faith) in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

AMENDMENT NO. 249

In lieu of the matter proposed to be inserted, insert the following:

''(10) In this subsection—

''(A) the terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7); and

''(B) the term 'unduly disrupt the operations of the employer', used with respect to the use of compensatory time off by an employee of the employer, means create a situation in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

AMENDMENT NO. 250

In lieu of the matter proposed to be inserted, insert the following:

has the measuring given the term in section 7(e).

''(10) UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.—The term 'unduly disrupt the operations of the employer', used with respect to the use of flexible credit hours by an employee of the employer, means create a situation in which the absence of the employee during the time requested would likely impose a burden on the business of the

employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

AMENDMENT NO. 251

On page 10, strike lines 4 through 7 and insert the following:

''(10) In this subsection—

''(A) the terms 'monetary overtime compensation' and 'compensatory time off shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7); and

''(B) the term 'unduly disrupt the operations of the employer', used with respect to the use of compensatory time off by an employee of the employer, means create a situation in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

AMENDMENT NO. 252

On page 23, strike line 23 and insert the following: has the meaning given the term in section 7(e).

''(10) UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.—The term 'unduly disrupt the operations of the employer', used with respect to the use of flexible credit hours by an employee of the employer, means create a situation in which the absence of the employee during the time requested would likely impose a burden on the business of the employer that would prevent the employer from providing an acceptable quality or quantity of goods or services during the time requested without the services of the employee.''.

GRASSLEY AMENDMENT NO. 253

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

On page 28, after line 16, insert the following:

(d) PROTECTIONS FOR CLAIMS RELATING TO COMPENSATORY TIME OFF AND FLEXIBLE CREDIT HOURS IN BANKRUPTCY PROCEEDINGS.—Section 507(a)(3) of title 11, United States Code, is amended—

(1) by striking ''$4,000'' and inserting ''$6,000'';

(2) by striking ''for—'' and inserting the following: ''provided that all accrued compensatory time (as defined in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) or all accrued flexible credit hours (as defined in section 13(A) of the Fair Labor Standards Act of 1938) shall be deemed to have been earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—''; and

(3) in subparagraph (A), by inserting before the semicolon the following: ''or the value of unused, accrued compensatory time (as defined in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207)) or the value of unused, accrued flexible credit hours (as defined in section 13A of the Fair Labor Standards Act of 1938)''.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES—SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, May 21, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on Senate Resolution 57, to support the commemoration of the bicentennial of the Lewis and Clark Expedition; S. 231, the National Cave and Karst Research Institute Act of 1997; S. 312, to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY; S. 423, to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason; S. 669, to provide for the acquisition of Plains Railroad Depot at the Jimmy Carter National Historic Site; and S. 731, to extend the legislative authority for construction of the National Peace Garden Memorial.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight field hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will take place Saturday, June 21, 1997 at 9:30 a.m. in the Saddle Mountain Intermediate School Gymnasium, 500 Riverview Drive, Mattawa, WA. The purpose of this hearing is to review issues and management options associated with the Hanford Reach of the Columbia River and to receive testimony on S. 200, a bill to amend the Wild and Scenic Rivers Act to designate a portion of the Columbia River as a recreational river.

The committee will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Others wishing to testify may, as time permits, make a brief statement of no more than 2 minutes. Those wishing to testify should contact Senator GORTON's office in Kennewick at (509) 783–0640 or Senator MURRAY's office in Spokane at (509) 624–9515. The deadline for signing up to testify is Friday, June 13, 1997. Every attempt will be made to accommodate as many witnesses as possible, while ensuring that all views are represented.

Witnesses invited to testify are requested to bring 10 copies of their testimony with them to the hearing, it is not necessary to submit any testimony in advance, Statements may be also be submitted for inclusion in the hearing record. Those wishing to submit written testimony should send two copies of their testimony to the attention of Jim O'Toole, Committee on Energy and Nature Resources, U.S. Senate, 354 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Jim O'Toole of the committee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, May 13, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 417, reauthorizing EPCA through 2002; S. 416, administration bill reauthorizing EPCA through 1998; S. 186, providing priority for purchases of SPR oil for Hawaii; S. 698, the Strategic Petroleum Reserve Replenishment Act, and the energy security of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 13, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, May 13, 1997, at 1 p.m. for a hearing on the President's plan for the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, May 13, 1997, at 10:30 a.m. in room 485 of the Russell Senate Building to conduct an oversight hearing on Public Law 102–477, the Indian Employment, Training and Related Services Demonstration Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, May 13, 1997, at 10 a.m. to hold a hearing on chemical weapons implementing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Aviation of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on May 13, 1995, at 2:30 p.m. on barriers to entry.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF WORLD WAR II EXERCISE TIGER OPERATION

● Mr. BOND. Mr. President, during the Memorial Day weekend, Veterans of Foreign Wars Post 280 in Columbia, MO will recognize a group of heroic men. Until recently, few people knew of the secret operation code named ''Exercise Tiger,'' because the details of the tragedy were not disclosed until after the Battle of Normandy and even then proper recognition was not given.

In December 1943, several training operations began in order to prepare for the Battle of Normandy. These operations, organized by the United States Army, were undertaken off a beach in Devon, England. It was known by all participating parties the dangers they could encounter. At the time, several German ships patrolled this stretch of water looking for American and English ships. One such evening during practice operations, with only one English ship to guard, there was a surprise attack on the American ships.

On April 28, 1944, the German Navy ''E,'' patrolling the English Channel, attacked the eight American tank landing ships who became aware of the attack only after the U.S.S. *LST–507* was struck by an incoming torpedo. Next, the U.S.S. *LST–531* was attacked and sunk in a matter of minutes. The convoy returned fire and the last ship to be torpedoed, the U.S.S. *LST–289*, made it safely to shore.

Even after this frightening turn of events, to it's credit, Exercise Tiger continued operations and remained on schedule. Normandy was attacked as planned and the D-day invasion was a success.

Information of the fatalities was not released until after the D-day invasion due to the secrecy of the mission and in order to keep the Germans from becoming aware of the impending strike. It took many years, and the passage of the Freedom of Information Act, to learn of the significance of these missions. I feel now is the time for these courageous men to get the long awaited recognition they deserve.

Four thousand men partook in this operation and of those, nearly a quarter was reported missing or dead. Records from the Department of Defense estimate 749 men died in addition to 441 Army and 198 Navy casualties. Approximately 200 of these men were from my home State of Missouri.

This Memorial Day weekend commemorates the heroic actions of the men who participated in Exercise Tiger and particularly the ones who lost their lives in this crucial preparation for the D-day invasion. VFW Post 280 has the great privilege of being the first in the State of Missouri to recognize these brave individuals.

In the words of Gen. Douglas MacArthur, ''Old soldiers never die, they just fade away * * *.'' I hope that through this long delayed acknowledgment of these fine soldiers, their memory will not fade away, but will remain in our minds and hearts for years to come. These men were an example for all American soldiers to live by and a credit to the United States as it remains the free and great country that it is today.●

PAUL CHARRON ON CHILD LABOR

● Mr. HARKIN. Mr. President, on April 17, 1997, a momentous occasion took place at the White House when a group of apparel manufacturers, importers, labor officials, and President Clinton announced their actions to reduce the incidence of abusive child labor in the manufacturing of imported articles into the United States. As one who has been working on this issue for many years, I am pleased with the progress that is being made, although I recognize we have a long way to go. Most importantly, we need leaders in the apparel industry who are willing to take that step forward and work to include all manufacturers and importers in this effort to ban abusive and exploitative child labor. In the recent past, many apparel manufacturers have resisted this effort, supposedly in the name of ''free trade,'' but I suspect there was probably another reason. On the other hand, there have been manufacturers and importers, who have stepped forward to courageously take the different course and that is to do everything they can to ensure that their products are not made with exploitative child labor.

One such person is Mr. Paul Charron, the chief executive officer of the Liz Claiborne Corp. He has been in the forefront of the fight to ban the use of exploitative child labor in the manufacturing of wearing apparel. Mr. Charron gave remarks at the White House that day, which I found to be most encouraging. His comments, indeed, echo my feelings, and I know the feelings of President Clinton when he said that ensuring human rights is the right thing to do, and it is the smart thing to do. Good working conditions are productive working conditions. He is absolutely right, and I want to applaud Mr. Charron and thank him for his courageous stance and leadership on this issue. I would also like to encourage the participants of the White House Apparel Industry Partnership to take the next step and adopt a labeling system giving consumers the information they need and companies the recognition they deserve.

At this point, I submit Mr. Charron's remarks into the RECORD, and I urge my colleagues and their staffs to review his remarks.

The remarks follow:

REMARKS FOR THE WHITE HOUSE APPAREL INDUSTRY PARTNERSHIP: PAUL R. CHARRON, APRIL 14, 1997

Thank you, Linda.

And thank you, Mr. President, for having the foresight to recognize that companies could work together with labor, human rights and consumer organizations towards the common goal of improving labor conditions around the world.

But let's not forget the contributions of this administration, particularly the Department of Labor and former Labor Secretary Robert Reich. I also want to acknowledge the tireless efforts of Maria Echaveste and Gene Sperling.

Furthermore, I would like to express my deep appreciation to all those from the industry, labor, human rights, consumer groups who contributed to this effort. And, of course, I would like to thank Roberta Karp, Liz Claiborne's general counsel, who co-chaired the task force.

The standards and processes developed by the Apparel Industry Partnership are groundbreaking. Together we have built a framework to more credibly address a serious and complex problem.

But the success of the Partnership's framework for improving working conditions depends upon the industry's ability to recruit its peers.

We must be realists. We must be problem solvers. And our first challenge is this: persuading our colleagues in the apparel and footwear industries—colleagues who are not represented here today—to join the fight.

In short, we have come here not to announce victory, but to proclaim a new challenge. And that is to make this a truly industry-wide effort. There is no other way.

The skeptics may ask—why do this? The answer is simple: it's good business. Some in the industry may think the companies standing here are taking an unnecessary risk; they may wonder how we can afford to make this commitment.

I would ask them in return—how can we afford not to?

Ensuring human rights is the right thing to do, and it is the smart thing to do. Good working conditions are productive working conditions.

Let me emphasize that we are faced with a unique opportunity to make further progress, and, again, our goal is to make this into an unprecedented industry-wide effort. This is only the start—the truly great accomplishments are yet to come.

Please join us to help this Partnership fulfill its potential.

And now, it is my great honor to introduce the President of the United States. Mr. President. . . .●

THE 50TH ANNIVERSARY OF THE TRANSISTOR

● Mr. LAUTENBERG. Mr. President, I rise today to mark one of those rare discoveries which not only make history, but actually change history. On

December 16, 1947, three Bell Laboratories scientists, Nobel Prize winners John Bardeen, Walter Brattain and William Shockley, working in Murray Hill, NJ, successfully operated the world's first transistor. The transistor allows the flow of electrons through solid materials to be controlled without requiring any moving parts.

Mr. President, I'm not a scientist, so I don't completely understand the technology that makes this tiny device work. But I do understand that, without it, an amazing array of products which have revolutionized our lives could simply not work. In fact, the transistor's impact on microelectronics, computers, telecommunications, and so much more reminds me of the words of Ralph Waldo Emerson, ''The creation of a thousand forests is in one acorn.'' And the forests of products which have sprung from the transistor is indeed dazzling.

Mr. President, not only is the transistor practically ubiquitous in our society, there is neither an individual nor an industry that has not benefited from this device. It has helped us advance the study of biology and medicine, permitting us to understand and heal the human body in ways that our ancestors could never even have imagined. It has altered our sense of community by permitting us to negate the effects of both time and distance through the development of worldwide communication networks. By doing so, the transistor changed the way we learn by instantly placing knowledge at our fingertips. And it has allowed us to explore the depths of the ocean, walk on the moon, and chart the solar system and the invisible domains of the universe. Obviously, the transistor not only revolutionized our lives, it has helped to lengthen our lives, enrich our lives, and provide our lives with greater meaning.

Mr. President, the tradition and tenacity of Bell Laboratories lives on in its linear descendent, Lucent Technologies. The men and women of Lucent continue to make innovative communications products using solid state technologies that are an outgrowth of the transistor's development. I salute their work, and as the direct heirs of Bell Laboratories, I congratulate them on the 50th anniversary of the transistor.●

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. ENZI). The Chair announces, on behalf of the majority leader, pursuant to Public Law 101–509, his appointment of C. John Sobotka, of Mississippi, to the Advisory Committee on the Records of Congress.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the Democratic leader, pursuant to Public Law 101–509, his reappointment of John C. Waugh, of Texas, to the Advisory Committee on the Records of Congress.

ORDERS FOR WEDNESDAY, MAY 14, 1997

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 a.m. on Wednesday, May 14. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate immediately resume consideration of S. 717, the Individuals With Disabilities Education Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SANTORUM. Mr. President, for the information of all Members, tomorrow morning, the Senate will resume the IDEA bill under the earlier time agreement. All Senators can expect a series of three rollcall votes beginning at approximately 9:45 or 9:50 a.m. Senators should be prepared to be on the floor for the stacked votes beginning early Wednesday morning in that the second and third votes will be limited to 10 minutes in length. Following the votes and a short period for morning business, the Senate will begin consideration of the partial birth abortion ban. The Senate might also consider the CFE Treaty during Wednesday's session. As always, Senators will be notified as to when any additional votes are scheduled.

ADJOURNMENT UNTIL WEDNESDAY, MAY 14, 1997, AT 9:15 A.M.

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:18 p.m., adjourned until Wednesday, May 14, 1997, at 9:15 a.m.

EXTENSIONS OF REMARKS

DAVIS OF VIRGINIA/WYNN/MORELLA/MORAN OF VIRGINIA/CUMMINGS/HOYER/WOLF GOVERNMENT SHUTDOWN PREVENTION AMENDMENT

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. DAVIS of Virginia. Mr. Speaker, this week the House is scheduled to vote on H.R. 1469, the Disaster Recovery Act of 1997, at which time we intend to offer our Government shutdown prevention amendment. This amendment will provide 100 percent of fiscal year 1997 spending levels through the end of fiscal year 1998, in the absence of regular appropriations bills. In addition, our amendment specifically ensures that no Federal employees will be furloughed or RIF'd because of this temporary funding level.

This amendment will guarantee that the Federal Government does not hold Federal employees hostage during a stalled appropriations process. In the State of Texas alone, this amendment will ensure that almost 200,000 hard-working Federal employees and their families will not have to face the prospect of unknown periods of unemployment when the Government shuts down. This is a commonsense amendment which will work as a safety net until the normal fiscal year 1998 appropriations process is completed.

In sum, this 100-percent safety net is an effective way to provide an immediate guarantee that: First, the Federal Government will always remain open and working for the taxpayer; second, we will meet our commitment to keep America's civil servants on the job; and third, we will meet our shared goal of controlling Federal spending.

AN ACHIEVABLE DREAM

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SCOTT. Mr. Speaker, I rise to call my colleagues' attention to the remarkable work of An Achievable Dream, a true success story in my district. It was 5 years ago when Walter Segaloff founded the An Achievable Dream Academy for academically at-risk students, many of whom have demonstrated that they are ready and willing to learn, if just given the proper environment. Sadly, their home environment is too often not conducive to learning. That's where An Achievable Dream, or AAD, steps in.

By instilling a love of learning and enabling each child to develop a personal, achievable dream leading to academic and subsequent professional success, AAD puts its arm around the shoulder of these kids who may otherwise be headed for academic and social failure as a result of poverty, family problems, or low self-esteem. Many of these children have been stigmatized, seeing only what they can't achieve. But Walter Segaloff and the others who direct AAD have shown them a different path, one toward personal success and price.

AAD's achievements are based on the combined efforts of dedicated individuals, who provide the vision and hard work, and local corporations and businesses, who have provided much-needed and appreciated monetary support. It is this community interest and assistance which helps set AAD apart, making it a role model for the rest of this Nation as we search for ways to improve education.

Reader's Digest magazine recently awarded AAD with their American Heroes in Education Award, a fitting tribute to a great program. This is only the most recent award garnered by AAD: The program has also been honored by a joint award sponsored by Business Week magazine and the McGraw-Hill Educational Publishing Group, in cooperation with the American Association of School Administrators, for educational innovation.

I would like to add my words of appreciation and thanks today to An Achievable Dream and the dramatic contributions the program has made to the Newport News community in Virginia, and to the Nation as a whole.

PARLIAMENTARY ELECTIONS IN YEMEN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. HAMILTON. Mr. Speaker, I want to draw the attention of my colleagues to the recent parliamentary elections in Yemen. The Congress doesn't often pay attention to Yemen, but what transpired there on April 27 was impressive. In a country that recently experienced civil war, that is one of the poorest countries on Earth, and that is in a part of the world where elections are not the norm, Yemen's electoral experience is worth noting.

On the spectrum of elections in the Arab world, these elections were perhaps the most positive outcome ever. The elections were competitive, they were open to all adult men and women, and political parties had the opportunity to get their message out.

What is particularly impressive is the commitment of the people of Yemen to the electoral process. Three separate national networks of independent election monitors watched ballot boxes throughout the country. In a country of high illiteracy, especially female illiteracy, the Arab Democratic Institute and other nongovernmental organizations worked hard to increase voter turnout, especially among rural women. The participation of women, 30 percent was low, but it was significantly higher than the level in the 1993 parliamentary elections, 19 percent.

The elections were not without flaws—there were some ballot box irregularities, there was too much military presence at voting places, there was some violence, and the elections did not fundamentally alter political power in Yemen, which remains in the hands of President Saleh.

The true test of the elections in Yemen depends on what happens next—whether the new Parliament will take up its responsibility to serve as an effective check on executive power, and whether the Parliament will work to improve life in Yemen.

I believe that it is in the United States national interest to support the development of a civil society in Yemen, and to enhance the effectiveness of Yemen's Parliament—not only because of the positive benefits for the people of Yemen but because of the importance of this example and experience for the entire Arab world.

TRIBUTE TO A YOUNG BENEFACTOR AND ROLE MODEL, MR. MICHAEL CARRICARTE, JR.

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mrs. MEEK of Florida. Mr. Speaker, it is indeed a distinct honor and great privilege to pay tribute to one of Miami's young unsung heroes, Michael Carricartre, Jr. Thanks to his efforts, on May 15, 1997, the students and staff of St. Francis Xavier School, an inner-city elementary school located in Miami-Overtown community, will join Archbishop John Clemente Favalora and the clergy in blessing and opening the doors to new classrooms and playground. Myriads of supporters and volunteers will be joining in to celebrate this historic occasion in my district.

This event was made possible by this young entrepreneur whose immense love for children is beyond measure. Armed with a vision toward making a difference in the Overtown children's future, 27-year-old Michael Carricarte, Jr., president of Dade County-based Amedex Insurance Co., vowed to provide a better environment for their learning. Reaching out to these inner-city children he is indeed making a difference in their lives.

Not oblivious of the drama of poverty, along with the problems of growing up, he took up the challenge that the children of St. Francis Xavier School will have a place where they can study and learn and obtain a God-loving environment. In his role as chairman of the school's building fund project, he begun raising money from personal friends and corporations, maximizing it with a personal loan he obtained from a local bank.

While there are special cases of individuals who go above and beyond the call of duty toward their fellowmen, Michael Carricarte, Jr., ensured that his vision is accompanied by his personal touch of concern and devotion to

children's learning. His persistent consecration to this agenda is personified by his goal that ''* * * a new modern building will be constructed with three big classrooms for the teaching of children, where they can go to school from kindergarten to the 6th grade * * * so that children can stay away from drugs and delinquency—and where they can get quality education in hopes of becoming good citizens of the future.''

Ever since he begun this project in 1992, he has been immensely gratified in helping these inner-city children. ''They too are entitled to a good education, just like the rest of America's children, because they truly represent our future,'' he is wont to say.

Mr. Carricarte has truly become the consummate community activist who abides by the dictum that children who have less in life, through no fault of their own, should have more from those of us who are more fortunate, regardless of race, creed, gender, or political affiliation. The collective testimony from parents and community leaders represents an unequivocal testimony of the utmost respect he enjoys from our community.

To date his undaunted efforts on behalf of the schoolchildren of St. Francis Xavier are succinctly shaping and forming the consolidation of efforts on the part of countless supporters and organizations. His word is his bond to those who have dealt with him—not only in moments of triumphal exuberance in helping our wayward youth turn the corners around, but also in his quest to transform this inner-city school into a veritable oasis where children's academic achievement and mastery of the basic schools are fully assured.

Michael Carricarte, Jr., truly exemplifies a fresh and unique leadership whose courageous vision and utmost caring for less fortunate children genuinely appeal to the noblest character of our humanity. I truly salute him on behalf of our grateful community.

IN HONOR OF ELINOR BOURJAILY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Elinor Bourjaily, whose life of service in Cleveland and North Royalton, OH, has been an inspiration to all who know her.

Elinor is a dedicated woman. She has worked hard for her church community. From 1950 to 1991, she worked in a number of capacities lending crucial help to St. George Antiochian Church in Cleveland. She taught in the church school and served as its superintendent. She was a member of the Ladies Guild, then became an officer and later president. She chaired numerous committees and functions, organized dinners and served Mercy Meals. From 1991 to the present, she has served St. Matthew Antiochian Church in North Royalton. She has served as Ladies Guild president, an officer and president of the Midwest Antiochian Orthodox Christian Women of North America and the governing council of The Order of St. Ignatius of Antioch.

She has been a devoted mother, grandmother, and wife. Elinor and Fred were married for 43 years until Fred's passing in 1993. Elinor's children, son, Fred Nick Bourjaily, and daughters, Anne Katherine Bourjaily Thomas and Beth Marie Bourjaily Goff, are accomplished, upstanding citizens. Elinor also has four wonderful grandchildren.

Mr. Speaker, on Sunday, May 18, family, friends, and admirers will join together to celebrate the gift that Elinor Bourjaily bestows upon everyone who knows her. We are lucky to have her in our midst.

TAIWAN'S GROWING DEMOCRACY

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. UNDERWOOD. Mr. Speaker, March 20, 1997, is a significant date for Taiwanese citizens. It marks the first year anniversary of direct presidential elections, an unprecedented event for the people of Taiwan. Taiwan's stellar rise from an agricultural, authoritarian regime to an increasingly democratic economic powerhouse is testimony to its reform-minded policies.

Significant events which led to the 1996 presidential elections include the termination of martial law in July, 1987, by President Chiang Ching-kuo. In 1990, the National Assembly chose Mr. Lee Teng-hui for the presidency and he proceeded with various reforms, such as legalizing opposition parties and restructuring the parliamentary groups. As a result, not only has there been a trend toward decentralizing political power, greater personal freedom, and less restrictions on the press are also other beneficial results of these reforms.

Taiwan is an emerging democracy, one which is a major political and economic player in the Asia-Pacific region. As our Asian neighbors, the people of Guam appreciate Taiwan's contributions to the economic transactions in the region. March 20 is certainly an important date, not only for the people of Taiwan, but for democratically minded citizens everywhere. It is further affirmation that democratic principles are not confined to certain groups, it is a universal conviction.

I offer my congratulations to President Lee Teng-hui for the immense progress he and the Government of Taiwan have achieved. His victory in last year's popular presidential elections confirm Taiwanese commitment to Mr. Lee's capable leadership and vision for the future.

RECOGNITION OF NATIONAL BOARD OF DIRECTORS OF THE NAACP—QUARTERLY MEETING IN ARLINGTON/FORT WORTH, TX—MAY 13, 1997

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. FROST. Mr. Speaker, I rise today to congratulate the national board of directors of the National Association for the Advancement of Colored People, on the occasion of their quarterly board meeting in Arlington/Fort Worth, TX. The meeting is being held from May 14 through May 17, 1997.

The national board meetings of the NAACP have traditionally been held on the east coast throughout the history of the organization. Bringing this meeting to Arlington/Fort Worth, TX, signals a new era in which the national board of the NAACP can have a presence throughout the United States.

Additionally, the location of this quarterly meeting is not only convenient for board members and other interested parties from Texas and the southwestern region, but is also expected to boost the economy in our area and save individual board members and the NAACP organization tens of thousands of dollars in travel and lodging expenses.

I especially want to congratulate the Arlington and Fort Worth NAACP branches on their hard work and persistence in attracting this meeting to Tarrant County, TX, and for their diligent preparations to make the board members' stay a productive, exciting and comfortable one.

The Nation's oldest civil rights organization continues to evolve and adapt to the challenges it faces in working toward equal justice and opportunities for all Americans, and especially African-Americans who have struggled as a race of people for more than 200 years to enjoy basic civil liberties.

Mr. Speaker, I would again like to congratulate and welcome the national board of directors of the NAACP to Arlington/Fort Worth, Texas.

TRIBUTE TO THE INDUSTRY ADVISORY BOARD OF THE SMITHTOWN CENTRAL SCHOOL DISTRICT

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Industry Advisory Board of the Smithtown Central School District, a group of more than 140 area businesses, that is celebrating 20 productive years of partnership between local industry and the Smithtown schools.

In today's fast-paced, technology-driven society, it is imperative that our schools prepare students with the skills they will need to excel in the modern workplace, and in the future. Preparing our students for a competitive and rapidly evolving global marketplace requires innovative new partnerships between school, businesses, government, communities, and families. Since 1977, the industry advisory board has forged that creative partnership with Smithtown schools, helping its teachers and administrators prepare our students for the demands of the 21st century workplace.

The first on Long Island to create such a partnership with its business and community leaders, an alliance that has enhanced school curriculum and markedly improved student achievement, Smithtown schools and local businesses have both benefited from this synergistic association. It all started with the practical goal of providing training and job opportunities to cooperative education students. Today, under the visionary guidance of Director Susan Gubing, more than 140 member organizations work to integrate the resources of industry and the skills of educators to develop strategies that will best prepare Smithtown students.

During its 20 years of operations, more than 10,000 students have taken advantage of the industry advisory board's career development programs, such as its job fairs, internships, cooperative work experience, and mentoring programs. Just as importantly, more than 200 educators have taken part in the industry advisory board's programs, learning innovative techniques that they use to supplement their course plans.

Since 1977, the partnership between Smithtown schools and its business community has created a powerful synergy that can be used as a model for creative school-community partnerships throughout America. Therefore, I ask my colleagues in the U.S. House of Representatives to join me in honoring the Smithtown school's industry advisory board as it celebrates its 20th anniversary on May 16, 1997.

MOTORCYCLE AWARENESS MONTH

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. KIM. Mr. Speaker, I rise today to recognize May as Motorcycle Awareness Month. In my home State of California alone, there are over 1 million motorcycle riders and passengers. Having owned a motorcycle myself, I know that motorcycles are efficient and a fun means of transportation. Motorcyclists are an equal partner on the road and because of their small size, it is important for all road users to be aware of each other and learn to share the road. Though many people believe motorcycle drivers represent a select group, they are quite a diverse group of individuals that include lawyers, doctors, teachers, engineers, architects, law enforcement officers, military personnel laborers, business owners and operators, veterans, city, county, State, and Federal employees, elected officials, both male and female. Therefore it is important to recognize that motorcyclists are a large part of our community.

Since motorcyclists are at more of a risk due to their size, most riders take the California Motorcycle Safety course in order to be better equipped to share the road. Furthermore, since the inception of the course, motorcycle accidents have decreased by 30 percent. But, they are only half of the equation because it is also important for cars, trucks, buses, and all other motor vehicles to realize it is necessary to look out for one another on the road and be cognizant of each other. If this were to be possible, accidents were decrease by even an larger percentage.

Motorcyclists are also recognized for their substantial contributions to the community given as individuals as well as through a number of organizations such as the Confederation of Motorcycle Clubs, the Modified Motorcycle Association, the American Motorcyclist Association, the California Motorcyclist Association, the Harley Owners Group, the Goldwing Touring Association, the Goldwing Road Riders Association, the American Brotherhood Aimed Toward Education Motorcycle Rights Organization, and many more. Through these organizations, motorcyclists are able to promote motorcycle awareness and safety throughout their community areas.

It is important to recognize the need for keen awareness on the part of all drivers that motorcycle riders are sharing the road with them. It is also essential to honor motorcyclists for their many contributions to the communities in which they live and ride. Thus, we should all take time out this month to make ourselves aware of motorcyclists and keep this awareness alive with every month that follows.

SALUTING NOVA SOUTHEASTERN UNIVERSITY COLLEGE OF OSTEOPATHIC MEDICINE, RECIPIENT OF THE PRESTIGIOUS 1997 ANNUAL PAUL R. WRIGHT EXCELLENCE IN MEDICAL EDUCATION AWARD

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mrs. MEEK of Florida. Mr. Speaker, I rise with pride to congratulate Nova Southeastern University College of Osteopathic Medicine on receiving the Paul R. Wright Excellence in Medical Education Award. It is the most prestigious award given by the American Medical Student Association, and Nova College of Osteopathic Medicine is the first osteopathic medical school in the United States to be selected for this honor.

In receiving this award, the Nova College of Osteopathic Medicine joins the ranks of the most distinguished medical schools in the country including Harvard Medical School, Mount Sinai School of Medicine, and the Baylor College of Medicine. This award recognizes the Nova School of Osteopathic Medicine as a leader in the Florida community and health care field and as a school of high quality medical education. It also serves as a milestone for other osteopathic medical colleges all over the country, heralding them as institutions of scholastic excellence.

I believe osteopathy's innovative educational methods and determined efforts to deliver high-level patient care are noteworthy. In 1996, 10,781 individuals competed for 2,200 slots in the 17 osteopathic medical colleges located throughout the Nation. The American Medical Student Association cited the Nova School of Osteopathic Medicine for its ''exceptional integration of interdisciplinary education into the training of tomorrow's physicians''. This award highlights the unique position of this outstanding institution as a leader in the advancement and enrichment of osteopathic medical education.

Mr. Speaker, I am proud and honored to represent the Nova School of Osteopathic Medicine in the 17th Congressional District of Florida. On behalf of our entire community, I applaud them for their commitment to the highest standards of patient care and I extend my best wishes for their continued success.

TRIBUTE TO MS. CHIA-LING YU

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. DOYLE. Mr. Speaker, I rise today to honor Chia-Ling Yu from Gateway High School. Chia-Ling is the top winner of the 1997 18th Congressional District High School Art Competition, An Artistic Discovery.

Chia-Ling's artwork was chosen from an outstanding collection of entries. Her mixed-media portrait which is entitled ''Jonay'' illustrates her strong individualized style. She is a young woman of considerable talent sure to have many successes in her future.

I look forward to seeing Chia-Ling's artwork displayed along with the artwork of the other competition winners from across our country. I am pleased to be associated with Chia-Ling's artistic talents.

Congratulations, Chia-Ling. I wish you all the best of luck in the future.

HONORING THOMAS W. ROACH, JR.

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. HINCHEY. Mr. Speaker, I would like to take this opportunity to recognize a man who has given his life to aiding the poor and underprivileged of New York's Ulster County.

Thomas W. Roach, Jr. began his long and distinguished career in public service as a captain in the U.S. Marine Corps. After leaving the military, he spent 30 years working in the insurance industry. During that time, beginning in 1974, Mr. Roach served in several capacities on the Ulster County Legislature, including minority leader from 1978 to 1979, and chairman from 1980 to 1983. While a member of the legislature, Mr. Roach was the chairman of the mental health committee for 2 years, and chairman of the public health committee for 4 years, while sitting on several other committees as well.

When Mr. Roach left the legislature, it was to continue his devotion to Ulster County as the county commissioner of social services. Under his leadership, the Ulster County Department of Social Services became known throughout New York as a model in innovative program development and initiative. Healthy Start, a home-visitor based early intervention program, the Family Violence Investigative Unit, and the Social Services Roundtable, which has greatly improved communication between the commissioner, staff, and clients of social services, are only a few of the programs developed by Commissioner Roach.

Outside of his professional commitment to Ulster County and the welfare of its people, Thomas Roach has also participated in many community activities in this area. He served as president of the Maternal-Infant Services Network Board, the American Cancer Society-Ulster County Chapter, and the New York State Public Welfare Association, of which he is still a board member, and many other organizations.

To my great sadness, Thomas W. Roach, Jr. has decided to retire from his position as Ulster County Commissioner of Social Services after 12 years of dedicated service. His departure will be keenly felt by those he worked with, the many people he helped during his tenure, and our entire community. I can only hope that his successor will be able to continue the precedent he has set for dedication, innovation, and collaboration, and that he continues the charitable work in our community which he has been involved in for so

many years. He has always been and will continue to be a good citizen and a great friend.

REMARKS OF MILES LERMAN, CHAIRPERSON OF THE U.S. HOLOCAUST MEMORIAL COUNCIL AT THE NATIONAL DAYS OF REMEMBRANCE CEREMONY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. LANTOS. Mr. Speaker, at an extremely moving ceremony in the rotunda of the United States Capitol last Thursday, Members of Congress, the diplomatic corps, representatives of our Nation's executive and judicial branches, and hundreds of survivors of the Holocaust with their friends and family gathered to commemorate the National Days of Remembrance. This was an occasion when we take the time to remember the horror and inhumanity of the Holocaust.

In 1933, more than 9 million Jews lived in continental Europe. Over the next decade the countries where these men and women and children lived were invaded, occupied, or annexed by Nazi Germany. By the end of the Second World War, 2 of every 3 of these European Jews were dead, and European Jewish life was forever changed. As my colleagues know, I was one of those fortunate individuals who survived that horrible era.

Mr. Speaker, in recognition of the unspeakable horror of the Holocaust and the importance that we never forget that tragedy, the U.S. Holocaust Memorial Council was established by Congress to preserve the memory of the victims of the Holocaust. One of the most important tasks in this effort is the annual Days of Remembrance commemoration in the rotunda of our Nation's Capitol. I commend both the Council and the members of the Days of Remembrance Committee for their achievement this year, and I want to pay particular tribute to the chairperson of the Council, my dear friend Miles Lerman, for his extraordinary effort.

The time of this year's Days of Remembrance commemoration was ''From Holocaust to New Life.'' This remarkable ceremony celebrated the lives and legacy of those on those who survived those darkest of days, and came to a new beginning here in the United States. As one survivor explained ''America gave me the opportunity to be a human being again.'' I fully understand those feels, Mr. Speaker.

At the national civic commemoration, Chairperson Miles Lerman, delivered an outstanding speech on this solemn occasion. Mr. Speaker, I ask that his remarks be placed in the RECORD, and I urge my colleagues to read them.

Salutations! In the days when the Jewish communities of Europe were rapidly being wiped off from the surface of the Earth and in the moments of our deepest despair, we clung to hope in spite of hopelessness. We dared to dream without really believing that our dreams would ever come true.

Who of us would have believed then that the day would come when hundreds of survivors would gather in the Capitol rotunda in the heart of historic America to demonstrate our commitment to remembrance.

Today as we commemorate the milestone of 50 years of new life in America, we must bear in mind that this milestone is not a celebration.

This can only be a commemoration.

The loss is too enormous, the pain is too deep and the memories are too traumatic.

So let us use this auspicious moment to take stock of our accomplishments of the last fifty years.

When the Nazi nightmare finally ended, we stood on the smoldering ruins of a devastated Europe, our families murdered, our homes destroyed or occupied by strangers and our dreams completely shattered.

We had every reason to feel bitter with the world, suspicious and distrustful.

As a matter of fact, there were those who believed that we survivors would never be able to fit in and readjust to a normal society again.

Fortunately, we proved them wrong.

We have mastered the strength to rebuild our lives and become a constructive part of the communities that we live in.

We have every reason to be proud of our accomplishments.

Fifty years ago we came to the shores of America not knowing the language or the customs of this country. Most of us came here penniless and most of us without any technical or professional training. But in spite of these shortcomings by sheer tenacity, by hard work and decent conduct, the survivors have managed to make an impact on the economic and cultural development of their respective communities or even beyond.

Some of you whom we have chosen as symbols of this miraculous revival, created new industries and are giving employment to thousands of people.

With your entrepreneurial spirit, some of you have managed to change the skylines of many cities in America.

We survivors have every reason to be especially proud of our families and the children we have managed to raise.

We succeeded to instill in them all the positive characteristics mankind has to offer; healthy work habits, love for study, and a desire to aim for excellence.

As a result of this, our children have reached very impressive levels in the fields of science, technology and performing arts.

So let us commemorate the 50th anniversary of new life in America with a sense of gratitude that it was our fate to defy Hitler's evil plans.

A sense of achievement for having been able to play a role in re-igniting the sparks of Jewish creativity.

But above all, we are here to express our deep gratitude to our new homeland, the United States of America and its people, for giving the survivors of the Holocaust an opportunity to pick up the broken shards and start rebuilding our devastated lives all over again. This is a gratitude that we will carry deep in our hearts forever and ever.

I commend Ben Meed, the chairman of the National Days of Remembrance and his committee for designating this year's remembrance ceremony as a day of contemplation and a day of thanksgiving.

However, we must bear in mind the expressions of gratitude cannot be limited to words only. Remembrance is only meaningful if it is translated into deeds—tangible deeds.

During the creation and the building of the Holocaust Memorial Museum, survivors have demonstrated by tangible deeds that they do remember and know what to do with these memories.

I am fully confident that survivors will continue to be in the forefront of remembrance because all of us firmly believe that destiny has chosen us to survive and become the guardians of this sacred flame.

This is a legacy we must fulfill. This is an obligation that we and our children will carry for the rest of our days.

Thank you.

A TRIBUTE TO FIREFIGHTER McELVAIN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN Mr. Speaker, I rise today to honor ''Red'' McElvain for his lifetime of service with the Los Angeles City Fire Department. Indeed his dedication to serve our Nation and community is a model of civic duty.

Red grew up in the San Fernando Valley and graduated from North Hollywood High School. While in high school he excelled in football, track, baseball, and basketball lettering in each sport. Although his athletic prowess earned him scholarship offers to several colleges, he opted to serve his Nation in the Army. As an enlisted man, he was part of the Elite 11th and 82d Airborne Ranger Divisions.

Upon completing his tour in the Army, Red became a firefighter. In his 39 years as a firefighter he has had experience in several different types of companies. Among his assignments, he has worked on both engine and truck companies, and he has specialized in airport crash and helicopter operations. His experience not only makes him extremely versatile, but allows him to serve as a mentor to many of the new recruits.

When away from work Red is actively involved in his local community. He donates his time to local youth sports, school visitations, and other charitable events. Firefighter McElvain lives his life in accordance with William Penn's sentiments when he wrote, ''The public must and will be served.''

Mr. Speaker, I am privileged to represent Red McElvain, he is a deserving recipient of the City Fire Department's Outstanding Performance Award.

FLOOD RELIEF—FALMOUTH, KY

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, in the wake of the flooding along the Licking River in Kentucky, I would like to recognize the following 56 men who gave of their personal money, time, and energy to assist with flood relief. At the invitation of Senator Gex Williams, they served in and around the towns of Butler and Falmouth, KY, for a period of 3 weeks from March 7–28, 1997. During this time they assisted the local emergency relief agencies in the salvage, cleanup, and demolition of homes and businesses that had been damaged, while spreading goodwill, faith,

hope, and charity wherever they went. Their sacrifice, diligence, and thoroughness conveyed a true sense of brotherly love to the citizens of Butler and Falmouth. The experiences these men received while serving will enrich their lives permanently, causing them to become better citizens, and thus have a greater impact on the world around them.

LISTING OF STUDENTS AND (STATES)

Ryan Batterton (WA), Joel Beaird (TX), Johnathan Bowers (TN), Michael Braband (MO), Jason Butler (AL), David Carne (OR), Thomas Chapman (MI), Charles Churchill II (NC), James Clifford (ON), Andrew Cope (SC), Geoff Davis (KY), Timothy Davis (CA), Benjamin Easling (WA), Paul Ellis (MS).

Steve Dankers (WI), Paul Elliott (WY), Ron Fuhrman (MI), Matthew Harry (MI), Timothy Hayes (NY), James Huckabee, Jr. (MO), Hans Jensen (CA), Joshua Johnson (WA), Daniel Lamb (CA), Aaron Lantzer (MI), Eric Lantzer (MI), Clayton Lord (KS), Jason Luksa (TX), Joshua Menge (GA).

Larry Mooney (OH), John Nix (TX), Steve Nix (TX), Daniel Norwood (GA), Keon Pendergast (CA), Matthew Pennell (DE), James Penner (OH), Daniel Reynolds (MN), Tim Rogers (NY), Gregg Rozeboom (MI), Joshua Schoenborn (WA), David Servideo (VA), Adam Shelley (MO), Michael Shoemaker (IN).

Chad Sikora (MI), Jeremy Smith (KY), Chuck Stewart (WV), Daniel Strahan (IN), Joshua Tanner (MI), David Thomas (MI), Timothy Tuttle (OR), Arial Vanderhorst (KS), Daniel Weed (NY), Scott Westendorf (OR), Shane White (KY), Jared Wickam (IL), Brian Wicker (AZ), Matthew Wood (WA).

IN SUPPORT OF WEI JINGSHENG

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today to urge the Chinese Government to release Wei Jingsheng and allow him to receive the medical treatment he desperately needs. Wei has been an outspoken and articulate advocate for democratic reform in China and is currently imprisoned for his efforts.

Wei has spent much of his adult life in prison. He was arrested in 1979 for his participation in the Democracy Wall movement, during which he argued that the government's modernization plans were impossible without democratic reform. He remained in prison until 1993 when he was released on the eve of the International Olympic Committee's decision about whether to award the 2000 Olympics to Beijing.

Wei was arrested again in 1994, for his continued outspokenness and only days after meeting with Assistant Secretary for Democracy, Human Rights, and Labor, John Shattuck. Wei was held incommunicado for 20 months and has been sentenced to another 14 years imprisonment. He is due to be released in 2009. Wei's family has not been able to see him since February and he is very ill. He suffers from arthritis, high blood pressure, and heart disease, but is not receiving effective medical treatment.

Today, we mark the publication of Wei's book, ''The Courage to Stand Alone: Letters From Prison and Other Writings.'' Wei has received the 1994 Robert F. Kennedy Human Rights Award as well as the Sakarov Prize for Freedom of Thought.

Mr. Speaker, I urge all my colleagues to call on the Chinese Government to release Wei Jingsheng.

IN SUPPORT OF WEI JINGSHENG

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. GEJDENSON. Mr. Speaker, I rise again today to express my support for Wei Jingsheng and to call upon the Government of the People's Republic of China to release Mr. Wei immediately and to provide him with proper medical care.

As the title of his book indicates, Wei Jingsheng has had the courage to stand alone in his demands for democracy in China. China's most famous political prisoner has been incarcerated for almost 20 years. But this has not kept him silent. His collection of letters ''The Courage to Stand Alone'' revives echoes of Martin Luther King, Jr.'s ''Letters From a Birmingham Jail.'' The moral power of Wei's words inspire the international campaign to nominate him for the Nobel Peace Prize.

Mr. Speaker, recent alarming news from Wei's family underscore his need for immediate medical attention. His long suffering from heart disease and arthritis is now being compounded by debilitating back pain. A worsening neck problem is preventing him from even lifting his head. Reports indicate he has not seen a doctor in more than a year. This medical neglect must end, he must be given proper medical treatment.

Mr. Speaker, Wei Jingsheng languishes in a prison because he refuses to be silent in his support of democracy and human rights. The world's focus on fellow dissidents such as Vaclev Havel and Adam Michik helped turn the tide in other oppressive societies. That same glare of moral outrage must now shift to China's treatment of Wei Jingsheng.

The cases of Wei Jingsheng, Hao Fuyuan, and so many others jailed in the People's Republic of China represent an ongoing struggle. It is a battle that not only their families and friends must wage but a fight that all who believe in justice and freedom must join.

And so, Mr. Speaker I ask my colleagues and supporters of liberty throughout this country and across the globe to join me in demanding freedom and proper medical care for Wei Jingsheng.

A TRIBUTE TO EDWARD HERNANDEZ

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN. Mr. Speaker, I rise to pay tribute to an exceptional young police officer, Edward Hernandez. In only a few years Officer Hernandez has established himself as one of the San Fernando Police Department's top officers.

Officer Hernandez joined the San Fernando Police Department in 1993, after graduating from the Rio Hondo Police Academy. While at the academy he was voted the No. 1 cadet in his class. As a rookie on the force, Edward quickly earned the respect of his fellow officers with his maturity, quick learning ability, and thorough training. Within his first year on the force he was consistently at the top of productivity statistics. Edward has qualified for the highly prestigious 10851 CVC Award every year that he has been on the force.

Officer Hernandez has become a crucial member of the department's Special Response Team. Drawing upon his background in the U.S. Marine Corps, he has helped to train the team for tactical situations. Edward has received numerous commendations for his high quality work and consistent professionalism.

Officer Hernandez' hard work and professionalism make him an extraordinary law enforcement officer. These traits, coupled with his leadership abilities, ensure that he will have a significant impact on the San Fernando Police Department for years to come. Indeed, the people of San Fernando are safer with Officer Hernandez on the force.

As Theognis stated, ''* * * but to few men comes the gift of excellence.'' Edward Hernandez is one of those few to whom excellence is not a goal, but an expectation. His work exemplifies the values and work ethic of the residents of San Fernando. I am honored to recognize his service.

RUSSIA

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, as this Congress deliberates the issues facing our Nation and the world today, I would like to bring to your attention a group of young people and families who are taking significant steps to strengthen society in our country and around the globe. In particular, I would like to commend 384 such individuals who have recently returned from Moscow, Russia, where they have been involved over the 1995–96 school year in providing character education for orphans, public school children, college young people, juvenile delinquents, and families. They have been serving at their own expense under the authority and official invitation of the Moscow department of education. Their success continues to be heralded throughout Moscow by television, newspaper, and word of mouth among the citizens and leaders of Russia. Furthermore, the credentials and strengthening that this experience provides for those who have taken part will heighten the success of their work in their own home communities as they continue to serve families and young people through positive character training and practical assistance.

John Arnett (NC), Breton Alberty (LA), Evangeline Alexander (AL), Adam Allen (CA), Hugh Allen (CA), Karen Allen (CA), Matthew Allen (CA), Rachelle Allen (CA), Charles Astone (AZ), Jeri Lynn Backus (AR), Jerome Backus (AR), Martha Backus (AR), Sunny Barja (NC), Donny Barr (GA), Lindsay Bain (NZ), Simon Bain (NZ), Aileen Bair (OH), David Bair (OH), John Bair (OH), Peter Bair (OH), Robert Bair (OH), Stephen Bair (OH), Kelly Battson (CA), James Beaird (TX),

Amy Beckenhauer (CA), Gail Beckenhauer (CA), Kurt Beckenhauer (CA), Adam Bell (TX), Anthony Bender (CA), Patricia Bender (CA), Steven Bender (CA), Karine Bergeron (Canada), Matthew Berholic (WA), Jason Beverly, Richard Blair (CA), Nicole Blockeel (Canada), Dean Boehler (CO), Justin Boehler (CO), Rebekah Boehler (CO), Stacy Boehler (CO), James Brock (GA), Joshua Brock (GA), Sandra Brock (GA), Vann Brock (GA).

Paul Brooker (GA), Calyton Browning (NY), Rachel Browning (NY), Ralph Browning (NY), Robert Browning (Canada), Sandra Browning (NY), Wanda Browning (NY), Christopher Brudi (MI), Nathan Bultman (MI), Reuben Burwell (TX), Laura Grace Butler (AL), James Cade (MS), Laura Cade (MS), Melonie Cade (MS), Andrew Campbell (NZ), Daniel Campbell (NZ), Holly Cannon (OK), David Carne (OR), Adriane Cecil (GA), Andy Cecil (GA), Angela Chetta (GA), Marc Chetta (GA), Marc A. Chetta (GA), Matthew Cheeta (GA), Christel Clark (MI), Daniel Clark (MI), James Clark (MI), Lisa Clark (MI), Susan Clark (MI), Nathan Clausen (MN), Michael Clement (NE), David Coggin (VA), David Cohen (ND), Matthew Coker (OK), Jonathan Cole (ID), Alan Buck Collie (CA), David Collie (CA), Sarah Collie (CA), Susan Collie (CA), Timothy Collie (CA), Ryan Costello (FL), Richard Coulson (KS), Aarie Courneya (MN), Annalisa Craig (NE).

Daniel Craig (NE), David Craig (NE), Mary Craig (NE), Neil Craig (NE), Stephen Craig (NE), Timothy Craig (NE), James Crenshaw (FL), Kerri Lynn Crist (CA), Jonathan Davis (CA), Denise Diouhy (MN), Steven Diouhy (MN), Reuben Dozeman (MI), Annie DuBreuil (IL), Joshua Dunlap (FL), Bruce Eagleson (PA), Naomi Ellis (OR), Joseph Farley (CA), Jana Farris (CA), Alyson Fitch (NC), Tory Francis (KS), John French (CA), Jesse Fuqua (CA), Doran Gaines (TN), Terrianne Gaines (TN), Thomas Gaines (TN), Gerald Garcia (WI), Kriselda Garza (TX), Deborah Geiger (NC), Rhiannon Geraci (OH), Vicki Geraci (OH), William Geraci (OH), Charles Gergeni (IN), Jeremy Goertz (Canada), Jenna Golman (VA), William Gothard (IL), Alison Gracom (CA), Robert Greenlaw (TX), Christine Griesemer (SC), Andrew Griffin (TN), Craig Guy (MO), Peter Guy (CA), Marie Hackleman (MI), Ronald Hair (GA), Tamala Hair (GA).

Susan Hall (MI), James Harper (CA), Shirley Harper (CA), Natalie Harper (CA), Sally Hawkins (OR), Susan Hawkins (OR), Tim Hayes (NY), Louise Henne (MI), Clinton Hilman (OR), Judy Himan (OR), Kaarina Hilman (OR), Alan Holmes (NC), Julie Howard (FL), Kristen Howard (FL), Spencer Howard (FL), Walter Howard (FL), Walter S. Howard (FL), Aimee Howd (IA), Christonpher Hulson (OK), Terrill Hulson (OK), Wil Hunsucker (NC), Julianne Hunsucker (NC), Wilburn Hunsucker (NC), James Hynes (IN), Blayne Hutchins (ON), Judith Hynds (TX), Michael Jacquot (SD), Brian Jacynyk, Christina Jare (LA), Matthew Jett (AL), Anna Jones (GA), David Jones (CA), Donald Jones (MT), John Jones (GA), John D. Jones (GA), Joseph Jones (GA), Pamela Jones (GA), Elizabeth Joyner (NC), Christopher Keller (TX), Jessica Keller (TX), Judith Keller (TX), Robert Keller (TX), Stephanie Keller (TX), Joshua Kempson (NJ), Cara Kerr (FL).

Corrine Kerr (FL), Mary Ann Kerr (FL), W. Randall Kerr (FL), Dean Kershner (MD), Jason Kingston (TX), Daniel Koller (MO), Hermann Koller (MO), C. John Krabill (OR), Michael Krabill (OR), Candace Lacey (FL), Cherie Lacey (FL), Aaron Laird (MT), Dacon Laird (MT), Katherine Laird (MT), Nena Laird (MT), Zachary Laird (MT), James Lane (FL), Sondra Lantzer (MI), Amy Lee (CA), David Lee (CA), Katie Lee (CA), Cecelia Leininger (TX), James Leininger (TX), Kelly Leininger (TX), Tracey Leininger (TX), David Lent (GA), Deena Lent (GA), George Lent (GA), Marywinn Lent (GA), Michael Lent (GA), Rachel Lent (GA), Elizabeth Long (GA), James Long (GA), John Long (GA), Jadon Lord (KS), Mark Maier (WA), John Mardirosian (OK), Todd Marshall (MI), Joshua Martin (PA), Joshua Mather (NY), George Mattix (WA), Patricia Mattix (WA), Aaron Mattox (MO), Jennifer Mattox (MO), Kathleen McConnell (MO).

Benjamin McKain (IN), Patricia McKain (IN), Sarah McKain (IN), Shannon McKain (IN), Thomas McKain (IN), Sonshine Meadows (GA), Charles Mehalie (NY), Debra Mehalie (NY), Rachel Mehalie (NY), Rebekah Mehalie (NY), Sandra Mehalie (NY), Sarah Mehalie (NY), T.C. Mehalie (NY), Stephen Midkiff (WA), Sarah Millard (OR), Amy Miller (MN), Rachel Miller (MT), Alan Mills (IN), Nancy Ruth Mirecki (Canada), Ira Moore (AL), Julia Moore (AL), Owen Moore (AL), Sarah Moore (AL), Robert Moore (AL), Joy Morgan (TN), Ann Phyllis Murphy (AR), Garland Doty Murphy (AR), Phyllis Murphy (AR), Zachary Murphy (AR), Kathleen Nicolosi (TX), Jerome Nicolosi (TX), Regina Nicolosi (TX), Vanessa Nicolosi (TX), Veronique Nicolosi (TX), Rachel Noel (OH), Hannah Oehlschlaeger (OR), Anne Oldham (TN), Alicia Olson (WY), Vladimir Osherov (Aust.), Jonna Patterson (GA), Glory Perkins (GA), Heather Perkins (GA), James Perkins (GA), Lea Perkins (GA), Timothy Peters (TX).

Janice Petersen (GA), John Petersen (GA), Timothy Petersen (GA), Gregory Phillips (WA), Beverly Pike (FL), Joshua Ramey (CA), Randall Rankin (AL), A. Marie Ratcliff (NC), Carolyn Ratcliff (NC), Paul Ratcliff (NC), William Ratcliff (NC), Christianna Reed (TX), Mary Regenold (TN), Jessica Reiter (CA), Beryl Richards (MI), Jerome Richards (MI), Jerome Richards, Jr. (MI), Veronica Richards (MI), Benjamin Riddering (CO), Jessica Riness (MI), Lindsay Rink (KS), Russell Risona (CA), Forest Robertson III (IN), Leigh Anne Robinson (TN), Debbie Rogers (LA), Deborah Rogers (LA), Jonathan Rogers (LA), Steven Rogers (LA), Charles Rogers III (LA), Charles Rogers, Jr. (LA), Joann Roof (NY), Charles Ross (IN), Charity Ross (IN), Jedidiah Ross (IN), Mary Ross (IN), Stephen Ross (IN), Rebekah Ross (IN), Rebecca Rowe (PA), Keith Rumley (MI), Laura Rumley (MI), Peter Rumley (MI), Holly Rupp (IL), Stacey Rupp (IL), Stephen Sallows (IL), Shanon Schneider (KS).

James Schroeder (TX), Molly Schultz (OR), Ashley Sell (WY), Harry Shedd (ME), Robert Sherwood (CA), Cherylynn Sherwood (CA), Valerie Sherwood (CA), William Sivells (TX), Cynthia Smith (PA), Daniel Smith (PA), Elizabeth Smith (PA), Timothy Smith (PA), James Sneed (MO), Laura Spencer (NC), Jesse Spivey (LA), Robert Spivey (LA), Wendi Sundsted (TX), Beau Taylor (WI), Jonathan Trotter (MO), Mark Trotter (MO), Daniel Truitt (TX), Jeffrey Truitt (TX), Harold Veltkamp (MT), Jennifer Waite (IL), Kenneth Waite (IL), Matthew Waite (IL), Nancy Waite (IL), Sarah Waite (IL), Dane Walker (VA), Jamie Walker (VA), Sarah Walker (VA), Thomas Walker (VA), Nicholas Wall (CO), Laura Warren (FL), William Warren (FL), Matthew Watkins (CA), William Watkins (LA), Aaron Watson (WA), David Watson (WA), Jonathan Watson (WA), Virginia Watson (WA), Matthew Webster (CO), Emily Weidler (NY), Shannon Welborn (FL), Heather Wenstrom (FL).

James Whitfield (KY), Daniel Whitten (CO), Jamie Whitten (CO), Jesse Whitten (CO), Jon Whitten (CO), Josiah Whitten (CO), Kim Whitten (CO), Linda Whitten (CO), Manoah Whitten (CO), Ryan Whitten (CO), Seth Whitten (CO), Stephen Whitten (CO), Susannah Whitten (CO), Daniel Wideman (Canada), Ted Williams (CT), Adam Wolsfeld (IL), Barbara Wood (VA), Harold Wood (VA), Timothy Wood (VA), John Worden (CA), Angela Zimmerman (NC), Christine Zimmerman (NC), John Zimmerman (NC).

TRIBUTE TO BOB KRIEBLE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. GINGRICH. Mr. Speaker, Bob Krieble passed away last week. In addition to being a friend, he was a scientist, an entrepreneur and an investor. But most importantly, he was a man who loved his country and loved freedom. He may not have been known to many Americans, but his influence spread far and wide in this country and abroad.

As a scientist, he invented the chemical mixture to help metal tighten to metal. From there, as a entrepreneur with his father, he founded Loctite Corporation. He held patents in the field of silicones, anaerobic adhesives and petrochems.

As an investor, he sought out emerging markets, including Korea and encouraged entrepreneurs wherever he went.

Yes, he was a patron of the conservative movement and a great one at that. In 1978, he joined the Heritage Foundation, and through his leadership, helped build one of the premier think tanks in the country today. In addition to Heritage, Bob also sat on the boards of Empower America, the Free Congress Foundation and was an active participant in many other conservative organizations. But it is not merely in the furtherance of a particular ideology that Bob's impact was felt.

Most significantly, in 1989, he founded the Krieble Institute to promote democracy, elections and free enterprise in the Soviet Union and Eastern Europe—before the fall of the Berlin Wall. He made more than 80 trips over there, conducting seminars, meeting with leaders and training a full-time network of over 20,000 field experts to establish political economic reform.

At the time, he shared this sentiment with a friend: ''I'm 76 and I'm in a hurry to help these people achieve the freedom that so many Americans take for granted.'' Bob Krieble had the vision to see that rapid change in Eastern Europe could happen. Others thought it would take more than a decade, but Bob put his money, mind and commitment where his heart was and helped bring about the change he knew was possible.

Bob Krieble was right, and so much of what has changed in the world today is a tribute to Bob's work, insights and influence.

He will be sorely missed.

I enter into the CONGRESSIONAL RECORD a further remembrance of Bob Krieble from our mutual friend Richard Rahn.

DR. ROBERT KRIEBLE, AUGUST 22, 1916–MAY 8, 1997

(By Richard Rhan)

THOUGHTS ON A GIANT OF A MAN.

It is rare to be able to make the unambiguous statement that an individual has made the world, not a better place, but a significantly better place, because of what he has done during his life. Bob Krieble was one of those very rare individuals—a world-class scientist, a highly successful entrepreneur and businessman, a philanthropist, an adventurer, an extraordinary fighter for freedom

and liberty who altered the course of history, a visionary, and always a kind and generous gentleman.

Bob Krieble invented what are commonly known as super adhesives where the bond is stronger than the materials it holds together. This invention has made life better and easier for virtually every manufacturer, hobbyist and homeowner on the globe. He literally changed the way many things are put together, from engines to toys. Starting with $100,000 from family and friends in the 1950's, he built a billion dollar multinational corporation. He created tens of thousands of well-paying jobs all over the world.

Bob was a distinguished chemist who did not forget that the scientific method has equal applicability to the political and economic sciences. He was a successful entrepreneur and investor because he understood it is better to place your assets in those countries that are pursuing relatively pro-growth economic policies, and are moving towards freedom rather than away from it. Though not a trained economist, he understood far better than many in the economics profession that low tax rates, a low level of economic regulation and government spending, sound money, and strong enforcement of property rights and civil contracts do far more to better the human condition than government transfer payments. He not only understood these things, he acted to bring them about across the globe through his energy and his financial support of politicians and institutions that were moving the world towards freedom and away from statism.

There are literally dozens of pro-democracy and pro-free market institutions that Bob Krieble generously supported, and in many cases helped to create. For example, he was one of the key early supporters of both the Heritage Foundation and the Free Congress Foundation. In addition, he gave away millions to help individuals who were in trouble all over the world, whether it was because of personal hardship, or because some totalitarian thug was trying to suppress the liberties of the people. His wonderful family, wife Nancy, daughter Helen, and son Fred shared his values, and have been supporting his work in their own right.

When the conventional wisdom was that the Soviet empire would go on many more years, Bob Krieble saw the rot and decided to push the demise a bit faster. In the 1980's he began financially supporting many of the dissident pro-democracy groups in Eastern Europe and the Soviet Union. He bought and delivered to them computers and fax machines. The US media, business, and political establishment ridiculed him. Business Week ran a derisive article entitled. ''The Quixotic Quest of Robert Krieble.'' Bob, of course, remained undeterred, and as usual was soon proven right, as the walls came a-tumbling down. Bob not only fought communism and helped to speed its demise, but understood that the destruction of communism was not enough. He realized that to have a safe, prosperous and free world, you have to have people in place who understand democracy and free markets. He created the Krieble Institute and spent millions of dollars of his own money on building a network of influential people in the former communist countries and on political and economic training, to help ensure that qualified people would be available to serve in the new non-communist governments.

Almost no one in the United States had heard of Boris Yeltsin until Bob Krieble got some of the Republican Congressional leaders to invite him for a trip to the US, which Bob helped to underwrite. Bob was one of Yeltsin's first American friends and apparently had a strong influence on him. A couple of years after the fall of communism in Russia, Bob was attacked by some communist deputies in the Russian Duma and in the communist press, as the evil capitalist who brought down communism. Bob's response was to fly to Moscow and hold a press conference to respond to his critics. He began by explaining that as much as he was honored by their accusations, he felt that he could only take a little credit for the end of communism.

For all of his accomplishments and wealth, Bob was a modest man who sought few creature comforts. In his travels in Eastern Europe and the former Soviet Union, he rarely stayed in the first class hotels—in those few cities where they were available—but preferred to stay in hotels that could be afforded by the locals, which most of us Americans viewed as only one step up from camping. In Washington, he drove a little Ford Festiva. After a typically hair-raising ride with him one day (Bob drove more like an eighteen-year-old than an eighty-year-old), I asked him why he did not buy a bigger and safer car. He said, ''The less money I spend on myself, the more I have to give away.''

Bob was a man of great physical courage and energy. The day the Russian tanks were shelling the Russian ''White House,'' Bob was in Moscow. He walked to the Moscow river embankment down below the building so that he ''could have a close look.'' Bob was a pilot who enjoyed flying acrobatic airplanes until he was well in his seventies. Scuba diving was another of his hobbies. On one occasion, a couple of the Novecon board members and I met him at the bar in the Radisson Hotel in Moscow. There he was sitting on the bar stool waiting for us, and after a bit, he casually informed us that he had spent the previous night in a hospital in Minsk because of illness, but there he was ready to go to work the next day in Moscow.

Bob was a rarity among businessmen; he did not try to curry favor in Washington, yet he was among the most influential of all businessmen in the Nation's Capital. The influence came, not just for his support of members of Congress who agreed with him, but because he was so principled. For example, when the US Chamber of Commerce reversed long-standing policies against socialized health care and tax increases, in a short-lived attempt to gain favor with the Clinton Administration, Bob Krieble was among only a handful of Board members who had the courage to resign in a public protest. Within a number of months he was again proven right, as the Chamber's membership forced it back to the principled position.

Many new companies around the world owe their very existence to Bob Krieble. He delighted in helping new entrepreneurs, particularly in newly freed economies. He understood that without a vibrant private business sector in the former communist countries, democracy would not prevail. He often talked to me about the need to build business partnerships in the transition countries. As a result, he co-founded the Novecon companies with me in our attempt to create profitable entrepreneurial partnerships in the former communist lands. His love of new technology never waned. Just a few weeks ago, I took him to Novecon Technologies' new little silicon carbide wafer plant in Herndon, Virginia, to meet with Gene Lewis, Jim LeMunyon and the Russian scientists who had developed the process. He took a great interest in Gene's explanation of the new and unique technological process. On our drive back to Washington, he had the enthusiasm of a twelve-year-old boy as he slapped the dashboard and said, ''Those fellows really have something there.''

Bob Krieble never gave up the fight for freedom. Each week, until he was stricken last month, he would commute from his estate in Old Lyme, Connecticut to his office and little apartment in Washington. He spent his time helping people and advising and supporting political leaders, institutions, and influential individuals to do the right thing. After a life of extraordinary accomplishment, Bob Krieble could have easily chosen a life of quiet retirement. Instead, he remained a vigorous revolutionary for free peoples and free markets to the end.

A TRIBUTE TO THE FORT WAYNE, IN, HABITAT FOR HUMANITY

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SOUDER. Mr. Speaker, I think we all agree that it is helpful for us as a body to periodically turn our attention from our business here in Washington to our constituents back home. It is important that we remember what individual citizens encounter during day-to-day life, and most importantly, learn from them how they meet these challenges.

We are familiar with Habitat For Humanity and the wonderful work it has done in fulfilling housing needs internationally. I submit for the RECORD a list of some of the students and faculty from Bishop Dwenger, Northrop, Canterbury, North Side, South Side, Carroll, Paul Harding, Bishop Luers, and Snider High Schools in Fort Wayne, IN, who devoted 14 days to building homes in the Fort Wayne area during these students' spring break. For 12 hours a day, this group worked with professional contractors on this labor of love. Since 1987, the Fort Wayne Habitat for Humanity chapter has built 32 homes.

These individuals didn't assume a government program was going to address the problem, they recognized a need and worked for a solution. I am proud to represent these Hoosiers and share them with the Members of this body as an example of what the future generation looks like in Indiana.

BISHOP DWENGER HIGH SCHOOL

STUDENTS

Dan Adams, Erica Aguirre, Ryan Aldin, Amanda Ballard, Stephanie Bianco, Gina Blum, Michelle Boicey, Joe Brownfield, Amanda Brudi, Josh Butler, Liz Christman, Audi Coonan, Angie Cutigni, Colleen Delaney, Aaron Dailey, Mary DeArmond, Erica Dray, Sarah Dumas, Natalie Florea, Jenny Furniss.

Chris Grashoff, Nikki Halley, Becky Harmon, Jill Hayden, Tom Hobler, Heather Hull, Christie Lott, Jenni Johnson, Cindy Jordan, Katherine Kuhne, Kelly Keating, Katie Kearney, Kourtney Kindt, Melissa Koors, Darren Kraft, Koe Krouse, Kerri Kumfer, Amanda Kumfer, Russell Lauer, Steve Ludwiski.

Matt Lung, Matt Manes, Laura Mangan, Laurie Marqueling, Katie McCarthy, Krissi McGarry, Hector Mercedes, Jenny Moeller, Andrea Moll, Joe Michaels, Tracey Neuman, B.C. O'Rourke, Jim Porter, Stece Preston, Carrie Przbycin, Nick Radford, Whitney Reeves, Jessica Reith, John Resig, Matt Robinson.

Michelle Rorick, Audrey Rosswurm, Stacy Sandor, Pete Schultz, James Schwartz, April Simon, Tom Smith, Robert Stazewski, Danielle Stewart, Matt Stier, Amanda Stier, Hanne Tenggren, Jared Thompson, Nate Till, Emilt Tippman, Julie Todoran, Devon Ullman, Zak Vrba, Julie Waikel, Kim Wheeler.

Eric Wilkins, Aimee Wyatt, Dan Zach, Andy Baltes, Chris Bouza, Beth Brown, Dave Brown, Jeff Cramer, Rene Espinosa, Matt Flaherty, Amber Franze, Andrea Freiburger, Marie Gonya, Kellie Hamrick, Sara Harmon, Nathan Hartman, Laura Helmkamp, Katie Hoffman, Vanessa Hogan, Stave Howell.

Meghan Johns, Tra Kennedy, Don Kimes, Cyndi Ley, David Luetzelschwab, Maria McGuire, Amanda Meyers, Matt Miller, Andra Monnig, Ebony Nichols, Amy O'Neil, Reid Pfleuger, Nika Porter, Casey Ryan, Julie Sanger, Tim Schenkel, Jessica Sikora, Marie Sordelet, Ben Sproat, Anton Talamantes.

Alex Tone, Greg Veerkamp, Rick Walz, Zack Ziembo, Betsy Blum, Bill Burich, Marcie Burke, LaKesha Carter, Nicole Chamberlin, Adam Christman, Leslie Colone, Ryan Cox, Mary Etter, Renee Geist, Emily Gill.

Amber Halley, Ben Henry, Allison Higi, Stephanie Irvin, Corey Johnson, Margaret Kearney, Andria Kowal, Suzie Loeffler, Janelle Lynch, Katie Mavis, Michelle McCarthy, Molly McCarthy, Missy Mountz, Ann Nguyen, Kyle Panther, Beth Quinn, Sabra Snyder, Becky Stewart, Emily Stucky, Gina Tippmann, Sara Todoran, Victoria Truesdell, Rob Waikel, Heidi Winebrenner, Sean Luetzelschwab, Brian Veerkamp, Patrick Walz.

NORTHROP HIGH SCHOOL

FACULTY

Mr. Timon Kendall, Mr. David Murphy, Mrs. Lee Murphy, Mr. Rob Mikol, Ms. Darlene Butler, Mrs. Mary Lou Eddy, Mr. Greg Pressley, Mrs. Carol Freck, Mrs. Lisa Helmuth, Mr. John McCory, Mr. Bob Trammel, Mr. Steve Mock, Mr. Val Harker, Mrs. Nancy Pressley, Mr. Bernie Booker, Mrs. Shari Miller, Mrs. Cheryl Strader.

Mrs. Shirley Johnson, Mrs. Jane Kimmel, Mrs. Mary Blaettner, Mrs. Jeanne Sheridan, Mr. Sam Diprimio, Mrs. Terri Springer, Mrs. Mary Collinsworth, Mrs. B.J. Harper, Mr. Al Jacquay, Mr. Bob Roebuck, Mrs. Marjorie Keever, Mr. Bernie Booker, Mrs. Lee Murphy, Mrs. Lilly Mikol, Mrs. Mary Lou Eddy, Ann Roth, Rebecca Smith.

STUDENTS

Jack Murphy, Michelle Ping, Carrie Dixon, Heidi Freudenstein, Samay Jain, Ann Roth, Jena Banasiak, Ycwubdar Manmektot, Angie Wareing, Bob Chu, Jane Terfler, Rachel Lesser, Michelle O'Brien, Jeanie Mora, Miles Stucky, Gina Love, Jill Koenig, Violet Vandever, Aaron Smits, Bryan Redmon.

Rebecca Smith, Sarah Jarosh, Jenn Boggs, Devina Mistry, Sara Nider, Amy Melchi, Tony Tuesca, Nicole Fisher, Lani Aker, Leak Seitz, Saray Raynor, Jody Orendorff, Kelly Rolf, Shannon Kelly, Jenny Moore, Twila Jones, Tiffany Huffine, Sam Derheimer, Lindsay Fetro, Sarak Bricker.

George McCue, Ryan McNeil, Bianca Mata, Sarah Shepler, Jon Hayhurst, Nate Wong, Brandon Blacctner, Megan Bowton, John Byerly, Amy Callison, Dustin Carboni, Ryan Dickey, Carrie Dixon, Jamie Durmford, Mindy Graf, Scott Eldridge, Jill Freck, Heidi Freudenstein, Heather Hansa, Candy Hilver.

Mandy Holifield, Sheena Jackson, Twila Jones, Shannon Kelley, Danielle Kiplinger, Jill Koenig, Lashonda Lapsley, Scott Lankcnau, Rachel Lesser, Tiffany Huffine, Zehra Mecuk, Sarah Milestone, Sarah Jarosh, Mary Legler, Jena Banasiak, David Weeks, Bianca Mata, Nate Wong, Chris Farr, Andy Howard.

B.J. McKinley, Liz Niemic, Michelle Ping, Josh Richardson, Ben Ridgley, Kelly Rolf, Anita Robertson, Ann Roth, Nathan Schaffer, Major Shear, Rachel Shepler, Rebecca Smith, Aaron Smits, Michelle Stenger, Amy Sturgis, Suzi Simerman, Violet Vanderver, Tony Weber, Angie White, Ryan Wigmore, Jane Terfler, Patrick Murphy, Brooke Ulrich, Laurel Longardner, Jodi Orendorff, Zack McKissik, Anthony Farr.

CANTEBURY HIGH SCHOOL

FACULTY

Ramona Fisher, Ted King, Nancy Vacanti, Rita Hayes, Bob Schantz.

STUDENTS

Ben Downie, Becca Downie, Kiya Bajpai, Lee Crawford, Dan Barrett, Seth Fischer, Avinash Mantravadi, Tracy Hayes, Ian Sambur, Dan Limburg, Abbie Vacanti, McLean Karr.

Emilie Powell, Charity Fesler, Anne Johnson, Kathryn Johnson, Sam Kaplan, Jessie Wickham, Make Najdeski, Kyle Michel, Maria Cipolone, Cecilia Taylor, Tina Zurcher, Neha Sharma, Katie Nichols, Lili Fuhr, Xenia Olajosova.

SOUTH SIDE HIGH SCHOOL

FACULTY

Ronald Holmes, Joann Piatt.

STUDENTS

Mindy Rorick, Nicole Hoffman, Nichole Pallard, Dan Hagen, Megan Pahmier, Metti Shank, David Miller, Josh Deyer, India Simmons, Leah Ahrensen, Steve Hill, Khalid Jaboori, Amarin Sengthongsava, Allyson Shadnagle.

CARROLL HIGH SCHOOL

FACULTY

Mike Cheviron, Judy Quinn, Sherrie Shade, Susan Terfler, Judy Schaubschlager, Steve Burner, Jo Bergstedt, Becky Reece, Susan Thompson, Cindy Vanvleet, Bill Mallers, Alison Hoff, Bonnie Wyss, Marti Weihe.

STUDENTS

Mary Slater, Amanda Repine, Amanda McClurg, Sara Zeiger, Matt Landin, Martha Boggs, Anna Hudson, Sherene Bucher, Rob Wermuth, Van Gardner, Kristie Stenger, Trey Begin, Faith Begin, Abi Iczkovitz, Dan Douglas.

Rula Mourad, Stephanie Simmerman, Andrew Krouse, Jeff Welch, Julie Baker, Erin Miller, Carrie Lane, Sarah Dick, Emily Richardson, Jennifer Burns, Jill Gilbert, Chad Freeland, Stacy Gephart, Amber Bond, Jennifer Osborne, Sarah Stephenson, Breanna Schaubschlager, Cathy Slater.

PAUL HARDING HIGH SCHOOL

FACULTY

Pam Butts, Mike Weidemeier, Mary Lou Renier, Craig Hissong, Alice Sheak, Neal Brown, Peggy Ruzzo, Mary Overmeyer.

STUDENTS

Kara Pettey, Adriana Lopez, Aundrea Sanders, Matt Bolden, Shakeira Drake, Kevin Neal, Augusta Harshman, Stephanie Barkley, Clara McCarley, Josh Summers, Meliss Krueger, Miracle Campbell, Tisha Hill, Sabrina Kitsos.

Chris LaPan, Doug Becker, Teresa Rittmeyer, Suraya Zaman, Stephany Jonas, Terence Johnson, Zach Evans, Daniel Rittmeyer, Josh Zaman, Nathan Yoder, Crystal Chatman, Paul Curl, She Kilso, Jason Griffin, Lamar Harvey, Cary Land, Joe Sauer, Noakem Zayyacheck, Glynnis Vann.

BISHOP LUERS HIGH SCHOOL

FACULTY

Terry Winkeljohn, Amber Booker, Dominic Freiburger, Wendy Breuggman, Cory Roffelsen.

STUDENTS

Vince Serrani, Mike Henz, Pete Hall, Betsy Quinn, Greg Witt, Angie Helmsing, Amanda Bratmiller, Steve Turner, Emily Lomont, Andy Blauvelt, Christopher Becker, Justin Rhoades, Theresa Wall, Rachel Heath, Matt Rurnschlag, T.J. Dickerson, Dacid Clough, Matt Freiburger, Nora Presswood, Ryann Harrington.

Andy Blauvelt, Katie Shank, Gretchen Augsburger, Nick Klingler, David Bugert, Allie Wyss, Joshua Booker, Marie Magers, Katie Rorick, Lindsey Giant, Scott Hartman, Laura Cost, Mandy Sroufe, Carmen Butler, Katie Colone, Jeni Lebrato, Pam Smith.

Becky Kelty, Beth Newell, Jennifer Wynt, Matt Dowling, Marcus Lummier, Courtney Furrow, Monica Guerra, Erin Spireth, Rachel Sorg, Melissa Castleman, Kendra Shuler, Beverly Wedler, Kathy Blankman, Sarah Thomas, Amy Creager, Elizabeth Wright.

A TRIBUTE TO KEN ERICSSON

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN. Mr. Speaker, I would like to bring to your attention Officer Ken Ericsson. This week Mr. Ericsson is being honored by the California Highway Patrol with the 1997 Valley Community Legal Foundation's Outstanding Performance Award.

Officer Ericsson is a 19 year veteran of the force who has served his entire career in the West San Fernando Valley. Those that have had the privilege of working with Ken describe him as a dedicated, reliable, and enthusiastic officer. During his tenure as an officer he has developed a special interest in officer safety.

While off-duty Officer Ericsson has attended various officer safety courses ranging from firearm safety to officer survival training. These skills paved the way for him to become the West Valley Office's safety instructor. In that post, he has helped officers become more aware of and prepared for potential dangers.

In addition to helping fellow officers, Ken's farsightedness and safety training saved his own life in June 1996. While conducting a traffic stop on the shoulder of the Ventura Freeway, he was hit by an errant driver and thrown down the freeway's embankment. Had he not been standing in the proper position on the shoulder, as he had been trained, his injuries would have likely been fatal. Fortunately, Ken was able to return to work a short time later.

Mr. Speaker, I ask that you join me, Ken's family and friends, and the residents of the San Fernando Valley in recognizing the outstanding and invaluable service to the community of Officer Ken Ericsson.

DISASTER RELIEF—LITTLE ROCK, AR

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, in the wake of the tornado disaster in Arkansas, I would like to recognize the following 56 young men who gave of their personal money, time, and energy to assist with tornado relief. At the invitation of Gov. Mike Huckabee and Mayor Jim Dailey of Little Rock, AR, and their

direction, they served in and around the city for a period of 4 weeks from March 3–28. 1997. During this time they assisted the mayor's office and city Department of Code Enforcement in removal of trees from homes and cleanup of house debris, while spreading goodwill, faith, hope, and charity wherever they went. Their sacrifice, diligence, and thoroughness conveyed a true sense of brotherly love to the citizens of Little Rock. The experiences these men received while serving will enrich their lives permanently, causing them to become better citizens, and thus have a greater impact in the world around them.

LISTING OF STUDENTS

Joseph Armis (IN), Robert Armstrong (WA), Jonathan Barber (GA), Adam Becker (OH), Jonathan Bendickson (BC), Evan Bjorn (WA), Daniel Boyd (TX), Nathan Bultman (MI), Alex Burrell (MI), Seth Campbell (ID), Shane Campbell (ID), Philip Codington (SC), Reuben Dozeman (MI), Brian Dye (CO), Jonathan Elam (IN), Jonathan Farney (KS), Steven Farrand (CO), Ron Fuhrman (MI), Gerald Garcia (MI), and Ryan Gearhart (TX).

Joel George (CO), Avione Heaps (MT), Burton Herring (MI), Marvin Heikkila (MN), William Hicks (CA), John Iliff (KS), Zachary Jaeger (IA), Caleb Kaspar (OR), Joshua Knaak (AB), David Kress (AL), Stephen Leckenby (IN), Andrew Leonhard (VA), Matthew Lindquist (CA), Brandon Lo Verde (NY), Andrew Lundberg (WA), Stephen Lundberg (WA), David Mason (GA), John Munsell (OH), Ryan Petersen (MN), and Timothy Petersen (GA).

Matthew Pierce (MS), Carl Popowich (CO), Daniel Powell (AL), Paul Southall (CA), Kevin Staples (AB), Joshua Syenhard (CA), Nathanael Swanson (NB), John Tanner (MI), Beau Taylor (WI), Joshua Thomas (OR), Daniel Thompson (CA), Seth Tiffner (WV), Roy Van Cleve (WA), Nathan Williams (KS), Joshua Wright (AR), and Jesse Young (AR).

ON WEI JINGSHENG

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, in 1995 it took a Chinese court less than 6 hours to convict Nobel Peace Prize nominee Wei Jingsheng of conspiring to subvert the Government. He was sentenced to 14 years in prison.

Wei was first imprisoned from 1979–1993, and has spent most of this last 18 years in solitary confinement. Yet the only crime that he has committed was standing up against tyranny and calling for democracy in China.

Today marks the publication of Wei's book—''The Courage To Stand Alone: Letter From Prison and Other Writings''—in which he writes about his belief in democracy and human rights. But despite international pressure and opposition, people in China continue to be detained and sentenced for standing up for their fundamental rights.

The trial and sentencing of Wei Jingsheng is a gross violation of the core ideals of democracy and freedom. In April 1994 Wei disappeared in the Beijing bureaucracy. For 19 months he was not allowed to communicate with his family, with legal counsel, or with his colleagues. In December 1995 Wei had only a few days to prepare a trial and obtain a lawyer.

Today Wei languishes in a cell where he spent the last years of his previous prison term. His health is poor and the conditions are deplorable. He suffers from arthritis, high blood pressure and heart disease, but his request for urgent medical attention have gone unfulfilled.

I applaud Wei's courage and strength to speak out in opposition to the tyranny of his government. I appeal to the Government of China to release this man, guilty only of believing in freedom and democracy. And I call on the President of the United States to continue to press for the release of Wei Jingsheng, and not to relent until he is free.

THE ATTORNEY GENERAL SHOULD LISTEN TO FBI DIRECTOR FREEH

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SOLOMON. Mr. Speaker, the evidence and implications keep piling up around President Clinton's administration regarding fundraising abuses which potentially led to breaches of national security and economic espionage. I know I have been heard many times in this section of the RECORD and during various congressional debates, but that is only because of the grave concern I have about the depth of the potential foreign influence and infiltration into our Government. And I don't doubt that there are many people of all political persuasions who share my concerns based on these developments.

I feel I can say that Mr. Speaker because I know that Director Freeh of the FBI has been investigating these very serious matters for months and hopes to get to the roots of the scheme both here and abroad. Another reason I feel we have reached a sort of critical mass is because of the response of the media over the last 6 months or more who have helped uncover and draw attention to the dealings of fellows like John Huang, Charlie Trie, and Johnny Chung within this administration, the White House, and the Democratic National Committee. Included is the New York Times who has repeatedly called for an independent counsel, almost as much as I have, to investigate these matters. The bottom line is, we are dealing with what is turning out to be a sensitive investigation of our national security and economic security that may have been compromised for political gain. We need to remove those politics and handle it with the seriousness of purpose it deserves and I hope the President and his Attorney General, Janet Reno, would feel the same. And they don't have to listen to me, they can listen to Director Freeh and the following editorial from the New York Times which I would like to submit to the RECORD.

[From the New York Times, May 9, 1997]

GOOD ADVICE FROM MR. FREEH

According to numerous news accounts, the head of the Federal Bureau of Investigation, Louis Freeh, has given Attorney General Janet Reno some sound advice for carrying out her duty in the White House fund-raising scandals. Unfortunately, Ms. Reno still refuses to heed it, despite the mounting damage to the Justice Department's reputation and her own.

Mr. Freeh has urged Ms. Reno to seek the appointment of an independent counsel to conduct the investigation into possibly corrupt fund-raising practices in President Clinton's 1996 re-election drive. He cited the gravity and sprawling nature of the case, plus early evidence pointing to high-level White House involvement. In addition to offering this wise counsel, the F.B.I. Director has just shown his concern about the widening campaign-finance inquiry by more than doubling the number of bureau employees assigned to it.

Of course, Mr. Freeh's agency faces its own internal problems, and in advising the Attorney General of the need for an independent counsel, he was only relaying what has been apparent for months now, and not just to Republican partisans in Congress. Still, it is reassuring to know that at least someone high up in the Justice Department understands the serious nature and sensitivity of the White House fund-raising mess, and the unavoidable conflict of interest it has created for Ms. Reno and the Justice Department.

Less reassuring is Ms. Reno's response. In defending her refusal to seek an independent counsel, she has expressed confidence in the expertise and judgment of law enforcement professionals within the Justice Department's criminal division. These professionals have argued against shifting the investigation from their control to an outside prosecutor, based on a dubious reading of the known evidence and the applicable campaign-finance laws. Now it turns out that Mr. Freeh, one of the nation's highest-ranking law enforcement officials, has been offering precisely the opposite advice.

Yesterday Ms. Reno tried to downplay the significance of this conflict within her department over the need for an independent counsel. But she has yet to give a convincing explanation of why she has chosen to reject Mr. Freeh's counsel.

Senator Orrin Hatch, a Republican and chairman of the Judiciary Committee, who sparred with Ms. Reno at a hearing last week, said he was not surprised by Mr. Freeh's stance. ''Who better than the F.B.I. Director could determine whether there are 'grounds to investigate' whether senior White House officials were implicated in violations of the law?'' Mr. Hatch asked by way of making a point that Ms. Reno must at long last grasp.

ENHANCING THE CHESAPEAKE BAY RESTORATION PROGRAM

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. CARDIN. Mr. Speaker, today Representative WAYNE GILCHREST and I are joining in a unique, bipartisan partnership to promote the next stage of the Chesapeake Bay restoration effort. Over the past 20 years the Federal Government has played a vital role in coordinating and encouraging intergovernmental work to reverse declines in the bay ecosystem. The bills Representative GILCHREST and I are introducing today will build upon the success of this program as the preeminent national model for cooperative, regional environmental restoration. Our joint effort speaks to the importance of both these bills.

The Chesapeake Bay Restoration Act, H.R. 1578, which I introduced with Representative GILCHREST as the lead cosponsor, reauthorizes Federal participation with State and local

governments in implementing the Chesapeake Bay agreement.

The bill: clarifies the leading role of the Environmental Protection Agency's Chesapeake Bay Program Office in coordinating scientific information, public outreach, and the activities and responsibilities of varying Federal agencies in the restoration; integrates ongoing habitat protection and enhancement, toxics reduction and prevention, nutrient management and water quality control efforts in the watershed with the overall bay program; establishes a program of small technical assistance and watershed improvement grants to communities, local governments, nonprofit organizations, and individuals to assist in projects complementing tributary basin strategies; assures the participation and compliance of Federal agencies owning or operating facilities in the Chesapeake watershed with the bay program; directs the EPA Administrator, working with the other signatories to the bay agreement, to regularly report to Congress on progress toward the goals established under the agreement; and authorizes $30 million per year between 1998 and 2003 for these purposes.

This legislation enhances and better coordinates the efforts of the Federal Government as a partner in the Chesapeake Bay restoration, while providing resources in line with current funding of the varying programs integrated under H.R. 1578.

Representative GILCHREST today introduced legislation, the Chesapeake Bay Gateways and Watertrails Act, H.R. 1579, that will complement the Restoration Act. I am joining him as the lead cosponsor of H.R. 1579. The Gateways and Watertrails Act will improve access and knowledge of the ''Jewels of the Chesapeake'' to those in our region and Nation. The bill directs the Secretary of the Interior to identify key sites and waterways in the watershed, work to protect them, and link them by roads, scenic byways, courses by water, and other means. It is an innovative project that will further enhance the goals of the bay program. Senator SARBANES, with many of his colleagues from the region, has introduced companion legislation to both the bills Representative GILCHREST and I are introducing today.

At a recent meeting of the Maryland congressional delegation held in the Capitol to review the Chesapeake Bay Program it was stated that the bay's restoration is not an event, but a process. The Chesapeake Bay is our Nation's largest estuary and the foundation for the ecological and economic health of the mid-Atlantic region. Nearly 15 million people live within its six State watershed and enjoy the many benefits of a healthy bay. Over the past two decades the overwhelming majority of the citizens in our region have committed to restoring the Chesapeake with a unanimity rarely found in public affairs.

Intergovernmental and private efforts to save the bay over the past generation have realized real successes in understanding and reversing declines in the Chesapeake ecosystem. But pressures on the bay continue to grow and for every victory, like the return of striped bass, there are many more challenges, from the devastated oyster population to the loss of wetlands. I ask my colleagues to join my distinguished friend from Maryland, WAYNE GILCHREST, and I in building on the successes of the bay program and taking on the new challenges we face.

Mr. Speaker, I ask unanimous consent that the text of the Chesapeake Bay Restoration Act, H.R. 1578, be printed in the RECORD at this point.

H.R. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chesapeake Bay Restoration Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) in recent years, the productivity and water quality of the Chesapeake Bay and the tributaries of the Bay have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of population growth and development in the Chesapeake Bay watershed, and other factors;

(3) the Federal Government (acting through the Administrator of the Environmental Protection Agency), the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, the Governor of the Commonwealth of Pennsylvania, the Chairperson of the Chesapeake Bay Commission, and the Mayor of the District of Columbia have committed as Chesapeake Bay Agreement signatories to a comprehensive and cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;

(4) the cooperative program described in paragraph (3) serves as a national and international model for the management of estuaries; and

(5) there is a need to expand Federal support for monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the original and subsequent goals and commitments of the Chesapeake Bay Program.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and strengthen cooperative efforts to restore and protect the Chesapeake Bay; and

(2) to achieve the goals established in the Chesapeake Bay Agreement.

SEC. 3. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

''CHESAPEAKE BAY

''SEC. 117. (a) DEFINITIONS.—In this section:

''(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Chesapeake Executive Council.

''(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

''(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

''(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

''(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

''(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

''(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

''(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

''(A) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

''(B) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay;

''(C) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

''(D) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

''(i) improve the water quality and living resources of the Chesapeake Bay; and

''(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

''(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

''(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

''(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

''(1) IN GENERAL.—In consultation with other members of the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance grants, to nonprofit private organizations and individuals, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with Environmental Protection Agency guidance.

''(B) SMALL WATERSHED GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

''(3) NON-FEDERAL SHARE.—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

''(4) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a person described in paragraph (1) in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the person under this subsection for the fiscal year.

''(e) IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the

Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate.

''(2) PROPOSALS.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement. The proposal shall include—

''(A) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and to meet applicable water quality standards; and

''(B) the estimated cost of the actions proposed to be taken during the fiscal year.

''(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for a fiscal year.

''(4) FEDERAL SHARE.—The Federal share of an implementation grant provided under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms during the fiscal year.

''(5) NON-FEDERAL SHARE.—An implementation grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.

''(6) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a signatory jurisdiction in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the jurisdiction under this subsection for the fiscal year.

''(f) COMPLIANCE OF FEDERAL FACILITIES.—

''(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.

''(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement.

''(g) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

''(1) NUTRIENT AND WATER QUALITY MANAGEMENT STRATEGIES.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement for the tributaries of the Chesapeake Bay to achieve and maintain—

''(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the main stem Chesapeake Bay;

''(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay;

''(C) the Chesapeake Bay basinwide toxics reduction and prevention strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources that inhabit the Bay or on human health; and

''(D) habitat restoration, protection, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

''(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in consultation with other members of the Chesapeake Executive Council, may offer the technical assistance and assistance grants authorized under subsection (d) to local governments and nonprofit private organizations and individuals in the Chesapeake Bay watershed to implement—

''(A) cooperative tributary basin strategies that address the Chesapeake Bay's water quality and living resource needs; or

''(B) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies.

''(h) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than January 1, 1999, and each 3 years thereafter, the Administrator, in cooperation with other members of the Chesapeake Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

''(1) assess the commitments and goals of the management strategies established under the Chesapeake Bay Agreement and the extent to which the commitments and goals are being met;

''(2) assess the priority needs required by the management strategies and the extent to which the priority needs are being met;

''(3) assess the effects of air pollution deposition on water quality of the Chesapeake Bay;

''(4) assess the state of the Chesapeake Bay and its tributaries and related actions of the Chesapeake Bay Program;

''(5) make recommendations for the improved management of the Chesapeake Bay Program; and

''(6) provide the report in a format transferable to and usable by other watershed restoration programs.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 1998 through 2003.''.

INTRODUCTION OF THE CHESAPEAKE BAY RESTORATION ACT OF 1997 AND THE CHESAPEAKE BAY GATEWAYS AND WATERTRAILS ACT OF 1997

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. GILCHREST. Mr. Speaker, today, I am pleased to introduce, with my distinguished colleague from my home State of Maryland, Mr. CARDIN, two bills to continue the protection, restoration, and public access and education efforts in the Chesapeake Bay watershed.

Our Nation's largest and most productive estuary, the Chesapeake Bay, is almost 200 miles long and is fed by 48 major rivers and hundreds of smaller rivers and streams. It is home to more than 2,700 plant and animal species and is the recreational destination of millions of people. The Chesapeake Bay also plays a primary role in this region's economy. In Maryland alone, the estimated value of commercial and recreational fishing, boating, hunting, and observing, feeding, and photographing wildlife in the Chesapeake Bay is $2.6 billion a year.

Draining into the Chesapeake are some 64,000 square miles; the bay's watershed covers most of Maryland, Virginia, and Pennsylvania, parts of Delaware, New York and West Virginia and all of the District of Columbia, and is home to over 15 million people. From the headwaters near Cooperstown, to the Appalachians in southwest Virginia and the Delmarva peninsula to the east of the bay, everything that affects the land, ultimately affects the bay. Every drop of rain, every ounce of polluted runoff, every best management practice, every tree planted within those 64,000 square miles makes the bay what it is.

It is the recognition of this connection that makes the Chesapeake so special. Sadly, the Chesapeake Bay had to fall victim to unchecked pollution, degradation of water quality, loss of underwater vegetation, and diminution of key fisheries before this connection between land and estuary was really understood. Like many other water bodies in the United States, unchecked and unregulated activities threatened wildlife habitat, commercially important fish species, and human health. In the late 1970's the problems in the Chesapeake Bay estuary were brought to light and Congress rallied to provide Federal dollars and structure to what became known as the Chesapeake Bay Program.

Since 1983, when the first Chesapeake Bay Agreement was signed by the Governors of the States of Virginia, Maryland, and Pennsylvania, the Mayor of the District of Columbia, the Chesapeake Bay Commission, and the Administrator of the EPA, the Chesapeake Bay Program has been a Federal-State cooperative responsible for restoring and protecting the bay. It has become the national model for interstate and intrastate cooperative efforts when a resource of regional and national significance is shared, as is the Chesapeake Bay.

The two bills we introduce today are a testimony to that initial recognition of the bay's unique value, the link between land and water and the need for additional education and outreach to continue the conservation, restoration and appreciation for the natural, cultural, historical, economical and recreational resources that the Chesapeake Bay provides this region.

The first bill we are introducing today, the Chesapeake Bay Restoration Act of 1997, is designed to build upon the Federal role in the Chesapeake Bay restoration efforts by maintaining the EPA Bay Program Office and highlighting the important technical and financial assistance, research and monitoring and educational and outreach programs the office fosters. The bill specifically establishes a small watershed grants program to provide Federal assistance to local governments and nonprofit organizations within the watershed for locally significant restoration, protection and education initiatives.

The second bill we are introducing today, the Chesapeake Bay Gateways and Watertrails Act of 1997, would further the connection of natural, historic, cultural and recreational resources to create an innovative

Chesapeake Bay gateways and watertrails network throughout the bay and its tributaries. This bill directs the Secretary of the Interior to identify and protect resources throughout the watershed, to identify these individual sites as Chesapeake Bay gateways, and to link them with trails, tour roads, scenic byways and other sites. It also directs the Secretary to establish important water routes as Chesapeake Bay watertrails, and connect these watertrails with gateways sites and other land resources to create a Chesapeake Bay gateways and watertrails network. This bill encourages the affiliation among all of these sites in an effort to improve overall access to the bay and its resources, as well as provide opportunities for education of visitors and residents alike.

A similar effort is already underway in Maryland, where our Department of Natural Resources has been working on a program to feature the connections among a variety of protected lands, parks, and other special natural areas. This bay link system, as it is called, seeks to highlight each site's role in maintaining the integrity of the Chesapeake Bay ecosystem while providing a unique recreational opportunity. The collection of sites also acts to educate visitors as to the regional significance of the site by providing historical and ecological information. Such information will eventually be provided to virtual visitors who visit the bay via the Internet as well.

Many residents of the watershed are familiar only with specific sites; many visitors to the bay are exposed only to particular areas. The Chesapeake Bay Gateways and Watertrails Act of 1997 would promote the creation of a network of important sites across the entire watershed and provide residents and visitors alike the opportunity to recognize the connections between different parts of the watershed. It would provide financial and technical assistance for the conservation of important areas in the bay's watershed and promote linkages among national parks, waterways, local or regional heritage sites, wildlife refuges and other regionally or locally significant areas in the watershed. While encouraging visitors to experience the history and beauty of the bay, the gateways and watertrails network would also enhance public education, outreach and access around the bay and its tributaries.

Mr. Speaker, I welcome this opportunity to let everyone know just how special the Chesapeake Bay is to Marylanders and everyone in our region. I am pleased to be introducing these two bills to further coordinate efforts to protect and conserve the treasures of the Chesapeake Bay and her watershed. I ask unanimous consent that the text of H.R. 1579, the Chesapeake Bay Gateways and Watertrails Act, be printed in the RECORD at this point.

H.R. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chesapeake Bay Gateways and Watertrails Act of 1997''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CHESAPEAKE BAY GATEWAYS SITES.—The term ''Chesapeake Bay Gateways sites'' means the Chesapeake Bay Gateways sites identified under section 5(a)(2).

(2) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.—The term ''Chesapeake Bay Gateways and Watertrails Network'' means the network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails created under section 5(a)(5).

(3) CHESAPEAKE BAY WATERSHED.—The term ''Chesapeake Bay Watershed'' shall have the meaning determined by the Secretary.

(4) CHESAPEAKE BAY WATERTRAILS.—The term ''Chesapeake Bay Watertrails'' means the Chesapeake Bay Watertrails established under section 5(a)(4).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (acting through the Director of the National Park Service).

SEC. 3. FINDINGS.

Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of international significance;

(2) the region within the Chesapeake Bay watershed possesses outstanding natural, cultural, historical, and recreational resources that combine to form nationally distinctive and linked waterway and terrestrial landscapes;

(3) there is a need to study and interpret the connection between the unique cultural heritage of human settlements throughout the Chesapeake Bay Watershed and the waterways and other natural resources that led to the settlements and on which the settlements depend; and

(4) as a formal partner in the Chesapeake Bay Program, the Secretary has an important responsibility—

(A) to further assist regional, State, and local partners in efforts to increase public awareness of and access to the Chesapeake Bay;

(B) to help communities and private landowners conserve important regional resources; and

(C) to study, interpret, and link the regional resources with each other and with Chesapeake Bay Watershed conservation, restoration, and education efforts.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to identify opportunities for increased public access to and education about the Chesapeake Bay;

(2) to provide financial and technical assistance to communities for conserving important natural, cultural, historical, and recreational resources within the Chesapeake Bay Watershed; and

(3) to link appropriate national parks, waterways, monuments, parkways, wildlife refuges, other national historic sites, and regional or local heritage areas into a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

SEC. 5. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.

(a) IN GENERAL.—The Secretary shall provide technical and financial assistance, in cooperation with other Federal agencies, State and local governments, nonprofit organizations, and the private sector—

(1) to identify, conserve, restore, and interpret natural, recreational, historical, and cultural resources within the Chesapeake Bay Watershed;

(2) to identify and utilize the collective resources as Chesapeake Bay Gateways sites for enhancing public education of and access to the Chesapeake Bay;

(3) to link the Chesapeake Bay Gateways sites with trails, tour roads, scenic byways, and other connections as determined by the Secretary;

(4) to develop and establish Chesapeake Bay Watertrails comprising water routes and connections to Chesapeake Bay Gateways sites and other land resources within the Chesapeake Bay Watershed; and

(5) to create a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

(b) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may include—

(1) State or Federal parks or refuges;

(2) historic seaports;

(3) archaeological, cultural, historical, or recreational sites; or

(4) other public access and interpretive sites as selected by the Secretary.

SEC. 6. CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Chesapeake Bay Gateways Grants Assistance Program to aid State and local governments, local communities, nonprofit organizations, and the private sector in conserving, restoring, and interpreting important historic, cultural, recreational, and natural resources within the Chesapeake Bay Watershed.

(b) CRITERIA.—The Secretary shall develop appropriate eligibility, prioritization, and review criteria for grants under this section.

(c) MATCHING FUNDS AND ADMINISTRATIVE EXPENSES.—A grant under this section—

(1) shall not exceed 50 percent of eligible project costs;

(2) shall be made on the condition that non-Federal sources, including in-kind contributions of services or materials, provide the remainder of eligible project costs; and

(3) shall be made on the condition that not more than 10 percent of all eligible project costs be used for administrative expenses.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $3,000,000 for each fiscal year.

A TRIBUTE TO WILLIAM JENSEN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to recognize a truly remarkable individual, Firefighter William Jensen. This week William's years of dedication and service to his community are being recognized by the Valley Community Legal Foundation as he is being presented with the outstanding performance award from the Los Angeles County Fire Department.

Bill joined the city of Glendale fire department in 1969. In his years in the department he has consistently brought an upbeat hard-working attitude to his work. When off duty Bill enjoys spending time with his wife, children, and grandchildren. He also volunteers in the community by maintaining the trees, shrubs, and yards for his older retired neighbors and friends. Nearing his own retirement Bill was looking forward to 1998 and spending more time with his family and friends when he was called to fight the Malibu-Calabasas fire.

The date was October 22, 1996. Bill was in Corral Canyon fighting the brush fire when he became trapped in a firestorm. He was caught by a sudden wind shift and engulfed by the flames. He was rushed to a local hospital where surgeons doubted that he would survive the second and third degree burns that covered over 70 percent of his body. However, Bill is not only a firefighter but a fighter as well. After enduring numerous surgeries and blood transfusions in his 3½ months in the hospital, he was finally able to return home.

Bill's incredible recovery did not come as a surprise to many of his coworkers, as one

said, ''If anyone could survive something like this, it would be Bill.'' On February 2 Bill returned home to celebrate his birthday with his family, friends, and a community that has rallied around him. His story is remarkable and should serve as an inspiration to us all.

Bill's heroism was recently recognized by the Glendale Fire Department as they honored him with the medal of valor. This week he is being recognized with the outstanding performance award from the Los Angeles County Fire Department. Truly these accolades are long overdue to a man who has been a model civil servant, community volunteer, and family man for many years. I am proud to salute Bill and his service to our community.

HUMANITARIAN AID—MOSCOW, RUSSIA

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, in a day and age where responsibility is shirked and leisure is honored over discipline, I would like to commend to you 14 young men who have shouldered responsibility beyond their years. These men served as Ambassadors of good will and friendship to the city of Moscow, Russia, under the direct invitation and authority of the Moscow Department of Education, between July 19 and September 3, 1996, as a part of Operation Flexibility 96–2. During this time they were involved in community assistance, demolition, construction, renovation projects, and meeting the basic needs of those around them. Their work and influence has not gone unnoticed by the Russian authorities, and indeed, the rest of the world, as they have been acclaimed and invited to several States and nations to continue the same tradition of service. The lessons and character that they are developing though their constant ministry, has and will continue to affect the lives of those they serve and meet in a positive manner.

Seth Campbell (ID), Andrew Cope (SC), Paul Elliott (WY), Ryan Gearhart (OK), Robert Myer (FL), Timothy Rogers (NY), David Servideo (VA), Adam Shelley (MO), Michael Shoemaker (IN), Scott Westendorf (OR), Brian Wicker (AZ), Matthew Yordy (IN), Joshua Meals (TN), Joshua Tanner (MI).

SUPPORT FOR ENDING ABUSE OF HUMAN RIGHTS IN CNMI

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. MILLER of California. Mr. Speaker, one of the major newspapers of the Pacific region has added its highly influential support to efforts to end the well-documented pattern of systematic human rights and labor abuses in the U.S. Commonwealth of the Northern Mariana Islands [CNMI]. I would like to bring to the attention of my colleagues this editorial from the April 25, 1997, Pacific Daily News, a newspaper based in Guam with widespread circulation both in the Pacific and the United States.

The article, ''Plans to Strip CNMI of its Labor, Immigration Authority Not Surprising,'' supports legislation I recently introduced with nearly 40 of our colleagues to bring immigration and minimum wage policies in the CNMI under Federal jurisdiction. H.R. 1450 also would require that goods made in the CNMI be labeled ''Made in USA'' only if all U.S. labor laws were adhered to in the manufacture of the goods.

Contrary to promises by the CNMI government to crack down on continuing labor and human rights abuses, the government has actually rolled back worker protections. Just last week, the CNMI governor announced that he will seek to repeal current law that would have provided a 15-cent increase in the existing subminimum wage for the garment and construction industry—an increase that would at least have brought the wages of these workers into conformity with other industries. The lowest paid workers in America, these foreign laborers—and especially the women—work long hours, are often denied overtime wages, live and work in unsanitary and unhealthy conditions, and face physical and mental abuse from employers.

The editorial strongly states ''If even a fraction of the numerous allegations of tolerance for illegal and immoral recruiting practices, human rights abuses and uncontrolled immigration are true, the CNMI deserves to be censured.'' Based on information contained in a report recently released by the Resources Committee, Economic Miracle or Economic Mirage, this threshold is easily met.

The Pacific Daily News editorial articulates the concerns of many Members of Congress, religious and human rights organizations, labor unions, and U.S. citizens, when it notes that if the CNMI government and local businesses ''want to benefit from America's reputation, then they need to subscribe to the principles that founded this nation.''

The article follows:

[From the Pacific Daily News, Apr. 25, 1997]

PLANS TO STRIP CNMI OF ITS LABOR, IMMIGRATION AUTHORITY NOT SURPRISING

If U.S. Congressman George Miller has his way, the Commonwealth of the Northern Marianas will be stripped of its power to control immigration, set its own labor standards or sell goods with the label ''Made in the USA.''

That announcement should not come as a surprise, because U.S. lawmakers and federal officials who have oversight of the commonwealth's affairs have threatened to do that for several years because of continued reports of abuse of these powers.

Besides curtailing CNMI immigration and labor powers, Miller has written legislation that will force the Saipan government to increase its minimum wage—something that Northern Marianas leaders have been reluctant to enact.

For years the commonwealth has been the subject of numerous investigations and scathing criticism about indiscriminately importing thousands of alien workers to fill low-paying jobs—frequently described as sweat shops.

Even with repeated promises from CNMI leaders to comply with federal demands to clamp down on admitted abuses, Miller isn't buying that anymore.

Along with his bill, Miller will release a 21-page report that details ''systematic labor, human rights and immigration abuses in the Commonwealth of the Northern Marianas and attempts to shield these abuses from public scrutiny.''

If Miller, who is the senior-ranking Democrat on the House Resources Committee, gets the support he needs, this may be the end of the line for unchecked control of immigration and labor in the Northern Marianas.

If even a fraction of the numerous allegations of tolerance for illegal and immoral recruiting practices, human rights abuses and uncontrolled immigration are true, the CNMI deserves to be censured.

There must be competitive balance for states and territories that comply with federal rules. And it's not right that foreign workers are treated so shabbily while someone else profits.

If the CNMI government and businesses that indulge in this practice want to benefit from America's reputation, then they need to subscribe to the principles that founded this nation.

Otherwise, sew a label on every garment that says: ''Made in the CNMI by Low Paid Alien Workers.''

RHAWNHURST-BUSTLETON AMBULANCE ASSOCIATION, INC., 35 YEARS OF SERVICE

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. BORSKI. Mr. Speaker, I rise today in honor of the Rhawnhurst-Bustleton Ambulance Association. For over 35 years, the volunteers of the Ambulance Association have been unselfishly dedicated to helping their friends and neighbors in need.

The members of the Ambulance Association exemplify volunteerism. They give of themselves without compensation, and often put themselves at risk. Regardless of weather or hour of the day, volunteers transport members of the community to and from hospitals.

The contributions that the Rhawnburst-Bustleton Ambulance Association makes to the neighborhood are vital and indispensable. In the case of an emergency, this group of people can be counted on to aide those in distress and need of care.

The volunteers of this community driven organization should be honored and congratulated on 35 years of service to their fellow citizens. I applaud them for the contributions they have made, and for the people they have helped. I wish them continued success in the future.

WIC

HON. RUBEN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. HINOJOSA. Mr. Speaker, I rise today to talk about the Women, Infants, and Children [WIC] Nutrition Program. First, I want to say this is a program I wholeheartedly support. Second, I want to say I support it because it is very important to the health of this Nation, and specifically to the health of the 15th Congressional District, which I represent. I mean this literally.

You see, the WIC Nutrition Program is probably the single most successful of all Federal

social programs. It has a proven track record of helping women deliver more healthy babies. Women in WIC are more likely to receive prenatal care. It has proven to lower the medical expenses of pregnant women. In fact, the Government Accounting Office estimates that every dollar spent on WIC saves $3.50 in Social Security and Medicaid benefits. Additionally, and perhaps most importantly, WIC has been linked to improved cognitive development among children.

In my district alone, a total of 60,115 women, infants, and children benefit from this nutrition program each month. This includes 12,641 infants, 34,293 children under the age of five, 6,231 pregnant women, and 6,850 postpartum/breast-feeding women. These numbers speak for themselves and tell why it is WIC is so important to so many in south Texas.

There are those who believe that the WIC Program is adequately funded. I, however, am not one of those and must take issue. WIC needs to be better funded, and should receive full supplemental funding at the administration's $78 million request.

Our Nation cannot afford to ignore the health and well being of our women, children and infants. Reducing nutrition programs geared toward the most vulnerable of our citizens is not the answer to reducing the budget deficit.

While I am new to these halls, one subject I hear discussed regularly is health care. WIC, in my eyes, is one of the best health care programs in place today, and as such, it is an outstanding investment in our Nation's future. By supporting this we are supporting better health for our Nation's children. This must always be among our foremost priorities here in Congress.

RECOGNITION OF GEN. RANDALL RIGBY

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. WATTS of Oklahoma. Mr. Speaker, it is my distinct privilege to represent Fort Sill, OK, in the U.S. Congress. Since 1902, tens of thousands of U.S. Army personnel have trained and have raised their families at Fort Sill and the neighboring city of Lawton, and many of these same men and women have retired near the post and built a community of families, businesses, and friends. In the Army and in Oklahoma, we are very proud of Fort Sill and its contributions to Oklahoma and to the Nation.

We are also proud of the fact that Fort Sill has always been blessed with outstanding leadership, and its current commander, Gen. Randy Rigby, is no exception. General Rigby came to Fort Sill as commander in June of 1995, 25 years after his first official arrival at the fort as a second lieutenant and student in the field artillery officer basic course. Even then, however, he was no stranger to Fort Sill since General Rigby is a native of neighboring Lawton, OK. In fact, General Rigby did his undergraduate schooling in Oklahoma. He then went on to build a distinguished record of military service that represents the absolute finest of that which we respect in our military's leadership.

Fort Sill has been blessed by General Rigby's strong and inspiring leadership. His dedication to the highest standards have reverberated through every corner of this important military facility.

Regretfully, in the Army, the time always comes when it's time to move on, and the Army has found a new and challenging position for General Rigby in Washington, DC. The Lawton/Fort Sill community will sorely miss Randy and his remarkable wife Carol who have been such extraordinary good neighbors in both the personal and the professional sense.

I would like to take this opportunity to wish Randy and Carol the very best for continued good success as they move on to their new assignment in the Nation's Capitol.

MOTHERS AGAINST DRUNK DRIVING YOUTH SUMMIT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. PACKARD. Mr. Speaker, all too often the headlines we read about young people today are punctuated with tragedy and violence. Today, however, I have a positive story to tell about young people from every congressional district who are here today to make a difference.

Today, 435 kids from across the Nation will be visiting each and every one of us to talk about what they are doing to stop underage drinking and driving. In California, where I am from, drinking related accidents accounted for more than 40 percent of traffic fatalities during 1995.

You might be surprised to learn that eight young people a day die in alcohol-related crashes. Many of us read and hear about the kids addicted to crack cocaine, heroin, and marijuana, but the No. 1 drug among young people is alcohol and it kills.

However, the young people visiting our offices today are working to change that. Over the weekend they met to discuss solutions to this problem and will discuss their finding with each of us. I listened carefully to both Marlena Plummer from El Camino High School and Anne Carriker from Carlsbad High School. I urge you to place close attention to the high school students visiting your offices.

I applaud these young people for their dedication and commitment. I look forward to the day when the headlines about young people are punctuated with their accomplishments rather than their tragedies.

TRIBUTE TO DANNY MASTRO

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to honor Sergeant Danny Mastro. It is a privilege to recognize someone like Sergeant Mastro who has consistently served the area while wearing his Los Angeles Police Department uniform as well as a volunteer in the community.

Sergeant Mastro's enthusiasm and leadership have served as a catalyst to his colleagues on the force, as they have joined him in his many community efforts. When those closest to Danny are asked what drives him the reply is simple: He cares about his community, especially its children.

In 1992, Sergeant Mastro created an antigang, antidrug billboard campaign directed at the youth of our community. Danny took this innovative idea and made it a reality. He raised several thousand dollars in donations to pay for printing costs and was able to get local companies to donate over 100 billboards. The billboards pictured Sergeant Mastro with a local hockey and football star and the slogan ''Who Is Your Role Model Going to Be?'' It is my sincere hope that the children of Los Angeles will follow Danny's lead and choose people like him as their role models.

Danny has played a vital role in numerous volunteer activities and community development programs. As part of an antigang unit, he counseled at-risk youths teaching them to focus their energy away from violence toward more productive and meaningful activities. He has galvanized support within the LAPD for several fund raising drives. He has also volunteered extensively in the Special Olympics, the Boy Scouts, and the local Head-Start Program. Indeed, the Sergeant has freely given of himself to his community.

Danny's presence in the community and on the force is a sure indicator that the strong ties will continue to be forged between the people of Los Angeles and the LAPD. I salute him for his efforts.

Daily Digest

Highlights

The House passed H.R. 5, to amend the Individuals With Disabilities Education Act and to reauthorize and make improvements to that Act.

Senate

Chamber Action

Routine Proceedings, pages S4327–S4400

Measures Introduced: Two bills were introduced, as follows: S. 736 and 737. **Page S4393**

Family Friendly Workplace Act: Senate began consideration of S. 4, to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and need of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, with a committee amendment, as modified. **Pages S4327–54**

During consideration of this measure today, Senate also took the following action:

A motion was entered to close further debate on the modified committee amendment and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Thursday, May 15, 1997. **Page S4350**

Individuals With Disabilities Education Act: Senate continued consideration of S. 717, to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that Act, taking action on amendments proposed thereto, as follows: **Pages S4354–57**

Adopted:

Jeffords Amendment No. 242, to make technical corrections. **Page S4355**

Pending:

Gregg Amendment No. 241, to modify the provision relating to the authorization of appropriations for special education and related services to authorize specific amounts or appropriations. **Pages S4354–76**

Gorton Amendment No. 243, to permit State and local educational agencies to establish uniform disciplinary policies. **Pages S4355–68**

Smith Amendment No. 245, to require a court in making an award under the Individuals with Disabilities Education Act to take into consideration the impact the granting of the award would have on the education of all children of State educational agencies and local educational agencies. **Pages S4368–71**

A unanimous-consent agreement was reached providing for further consideration of the bill and amendments proposed thereto, on Wednesday, May 14, 1997, with final disposition to occur thereon. **Page S4400**

Partial-Birth Abortion Ban Act—Agreement: A unanimous-consent agreement was reached providing for the consideration of H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortions, on Wednesday, May 14, 1997. **Page S4382**

Appointments:

Advisory Committee on the Records of Congress: The Chair announced, on behalf of the Democratic Leader, pursuant to Public Law 101–509, his reappointment of John C. Waugh, of Texas, to the Advisory Committee on the Records of Congress. **Page S4400**

Advisory Committee on the Records of Congress: The Chair announced, on behalf of the Majority Leader, pursuant to Public Law 101–509, his appointment of C. John Sobotka, of Mississippi, to the Advisory Committee on the Records of Congress. **Page S4400**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting a report concerning the national emergency with respect to Iran; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–34). **Pages S4391–92**

Adjournment: Senate convened at 10 a.m., and adjourned at 7:18 p.m., until 9:15 a.m., on Wednesday, May 14, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S4400.)

Committee Meetings

(Committees not listed did not meet)

COUNTERTERRORISM

Committee on Appropriations: Committee concluded hearings in open and closed sessions to examine the Administration's counterterrorism policy, the threat of terrorism in the United States, and Federal efforts to prevent and combat terrorism in the United States, after receiving testimony from Janet Reno, Attorney General, and Louis J. Freeh, Director, Federal Bureau of Investigation, both of the Department of Justice; and George J. Tenet, Acting Director, Central Intelligence Agency.

APPROPRIATIONS—DEFENSE

Committee on Appropriations: Subcommittee on Defense held hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs, receiving testimony from Robert M. Walker, Assistant Secretary of the Army (Installations, Logistics and Environment); Robert Pirie, Jr., Assistant Secretary of the Navy (Installations and Environment); and Rodney A. Coleman, Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment).

Subcommittee will meet again on Wednesday, May 21.

APPROPRIATIONS—HUD

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development, after receiving testimony from Andrew M. Cuomo, Secretary of Housing and Urban Development.

AIRLINE COMPETITION

Committee on Commerce, Science, and Transportation: Subcommittee on Aviation held hearings to examine issues with regard to maintaining competition in United States domestic airline service, focusing on how barriers to entry in the airline industry limit benefits of airline deregulation, receiving testimony from Charles A. Hunnicutt, Assistant Secretary, and Patrick Murphy, Deputy Assistant Secretary, both for Aviation and International Affairs, Department of Transportation; John H. Anderson, Jr., Director, and Tim Hennigan, Assistant Director, both of the Transportation Issues, Resources, Community, and Economic Development Division, General Accounting Office; John A. Edwardson, United Airlines, Elk Grove Village, Illinois; William A. Franke, America West Holdings Corporation, Phoenix, Arizona; Paul Stephen Dempsey, University of Denver, Denver, Colorado, on behalf of Frontier Airlines, Inc. and the Air Carrier Association of America; Duane Woerth, Air Line Pilots Association, International, Washington, D.C.; and H. Hugh Davis, Jr., and William H. Tittle, III, both of the Metropolitan Chattanooga Airport Authority, Chattanooga, Tennessee.

Hearings were recessed subject to call.

ENERGY CONSERVATION

Committee on Energy and Natural Resources: Committee concluded hearings on S. 417, to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002, S. 416, to extend the expiration dates of existing authorities and enhance United States participation in the energy emergency program of the International Energy Agency, S. 186, to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and S. 698, to authorize the Secretary of Energy, by lease or otherwise, to store in underutilized Strategic Petroleum Reserve facilities petroleum products owned by foreign governments or their representatives, after receiving testimony from Federico Peña, Secretary of Energy; John P. Ferriter, Deputy Executive Director, International Energy Agency; William F. Martin, Washington Policy and Analysis, Inc., Washington, D.C., former Deputy Secretary of Energy; Kenneth W. Haley, Chevron Corporation, San Francisco, California; and George M. Yates, Harvey E. Yates Company, Roswell, New Mexico, on behalf of the Independent Petroleum Association of America.

TIBET

Committee on Foreign Relations: Committee concluded hearings to examine the situation in Tibet and the impact of China's occupation policies on the people of Tibet, after receiving testimony from former Senator Pell; Jeffrey A. Bader, Deputy Assistant Secretary of State for East Asian and Pacific Affairs; Jeane M. Kirkpatrick, American Enterprise Institute, Maura Moynihan, Refugees International, and Lodi Gyari, International Campaign for Tibet, all of Washington, D.C.; and Robert A. F. Thurman, Columbia University, New York, New York.

DISTRICT OF COLUMBIA

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia concluded hearings to examine the President's proposed National Capital Revitalization and Self-Government Improvement Plan and alternative approaches to reorganize the government of the District of Columbia, after receiving testimony from G. Edward DeSeve, Controller, Office of Management and Budget; and Mayor Marion Barry, and Linda W. Cropp, Acting Chair, District of Columbia City Council, both of Washington, D.C.

CHEMICAL WEAPONS CONVENTION IMPLEMENTATION

Committee on the Judiciary: Committee concluded hearings on proposals to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as ''the Chemical Weapons Convention'' and opened for signature and signed by the United States on January 13, 1993 (Treaty Doc. 103–21), and a related measure S. 610, after receiving testimony from Richard L. Shiffrin, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice; Ronald D. Rotunda, University of Illinois College of Law, Champaign; D. Bruce Merrifield, Pridtronics, Arlington, Virginia; and Barry Kellman, DePaul University College of Law, Chicago, Illinois.

INDIAN EMPLOYMENT AND TRAINING PROGRAMS

Committee on Indian Affairs: Committee concluded oversight hearings on the implementation of the Indian Employment Training and Related Services Demonstration Act (P.L. 102–477), after receiving testimony from Ada E. Deer, Assistant Secretary of the Interior for Indian Affairs; Russell D. Mason, Sr., Three Affiliated Tribes Business Council, New Town, North Dakota; James E. Billie and Maureen Vass, both of the Seminole Tribe of Florida, Hollywood; Leroy Bingham, Cook Inlet Tribal Council, Anchorage, Alaska, on behalf of the 477 Tribal Work Group; Sharon Olsen, Tlingit and Haida Indian Tribes of Alaska, Juneau; Gerald Heminger, Jr., Sisseton-Wahpeton Sioux Tribal Council, Agency Village, South Dakota; and Norm DeWeaver, Indian and Native American Employment and Training Coalition, Washington, D.C.

House of Representatives

Chamber Action

Bills Introduced: 11 public bills, H.R. 1578–1588; 1 private bill, H.R. 1589; and 3 resolutions, H. Con. Res. 78, and H. Res. 145 and 147, were introduced. **Pages H2589, H2590**

Reports Filed: Reports were filed as follows:

H.R. 5, to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, amended (H. Rept. 105–95); and

H. Res. 146, providing for consideration of H.R. 1469, making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, including those in Bosnia, for the fiscal year ending September 30, 1997 (H. Rept. 105–96). **Page H2589**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Sununu to act as Speaker pro tempore for today. **Page H2491**

Recess: The House recessed at 1:07 p.m. and reconvened at 2 p.m. **Page H2495**

Suspensions: The House voted to suspend the rules and pass the following measures:

IDEA Improvement Act of 1997: H.R. 5, amended, to amend the Individuals with Disabilities Education Act and to reauthorize and make improvements to that Act (passed by a yea-and-nay vote of 420 yeas to 3 nays, Roll No. 124); **Pages H2498–H2541, H2567–68**

Higher Education Act: H. Res. 145, providing for the concurrence of the House with the amendment of the Senate to H.R. 914, to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures, with amendments; **Pages H2541–46**

Soap Box Derby: H. Con. Res. 49, authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby; **Page H2547**

National Peace Officers' Memorial Service: H. Con. Res. 66, authorizing the use of the Capitol grounds for the sixteenth annual National Peace Officers' Memorial Service; **Page H2548**

Special Olympics Torch Relay: H. Con. Res. 67, authorizing the 1997 Special Olympics Torch Relay to be run through the Capitol Grounds; and **Pages H2548–49**

Honoring the Late Chaim Herzog: H. Con. Res. 73, concerning the death of Chaim Herzog. **Pages H2549–52**

Presidential Message—National Emergency Re Iran: Read a message from the President wherein he submitted his report concerning the National Emergency with respect to Iran—referred to the Committee on International Relations and ordered printed (H. Doc. 105–82). **Pages H2552–53**

Housing Authority and Responsibility Act: The House resumed consideration of amendments to H.R. 2, to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs. The House completed all debate on Wednesday, April 30 and considered amendments to the bill on Thursday, May 1, Tuesday, May 6, Wednesday, May 7, and Thursday, May 8. **Pages H2553–67**

Agreed To:

The Nadler amendment that authorizes the sale of a Federal building at 252 Seventh Avenue in New York County, New York to a qualifying nonprofit organization for use as housing for low-and-moderate-income families or individuals; and **Pages H2556–57**

The Towns amendment that requires a management assessment indicator to determine whether the housing agency has conducted an assessment to identify any pest control problems in its public housing and its effectiveness in eradicating or controlling such problems. **Pages H2558–59**

Rejected:

The Smith of Michigan amendment, as modified, that sought to limit pet ownership in public housing to the elderly or a person with disabilities; **Pages H2559–61**

The Kennedy of Massachusetts amendment, debated on May 8, that sought to specify that of all families who receive choice based housing assistance, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income (rejected by a recorded vote of 162 ayes to 260 noes, Roll No. 119); **Page H2563**

The Kennedy of Massachusetts amendment, debated on May 8, that sought to delete title IV, the Home Rule Flexible Grant Option that gives local governments and municipalities the flexibility to administer Federal housing assistance (rejected by a recorded vote of 153 ayes to 270 noes, Roll No. 120); **Pages H2563–64**

The Vento amendment, debated on May 8, that sought to delete the Housing Evaluation and Accreditation Board that is to be established as an independent agency (rejected by a recorded vote of 200 ayes to 228 noes, Roll No. 121); **Pages H2564–65**

The Kennedy amendment that sought to require adult owners of housing subject to project based assistance to contribute not less than 8 hours of work per month within the community in which the housing is located (rejected by a recorded vote of 87 ayes to 341 noes, Roll No. 122); and **Pages H2555–56, H2565–66**

The Davis of Illinois amendment that sought to exempt residents and others receiving choice-based housing assistance from community work, agreements establishing target dates for transition out of assisted housing, and minimum rent requirements when HUD takes possession of an agency or any developments or functions of an agency, or has possession of an agency or the operational responsibilities of it (rejected by a recorded vote of 145 ayes to 282 noes, Roll No. 123). **Pages H2561–62, H2566**

On April 30, the House agreed to H. Res. 133, the rule that is providing for consideration of the bill. **Pages H2035–38**

Referrals: S. Con. Res. 26, to permit the use of the rotunda of the Capitol for a congressional ceremony honoring Mother Teresa, was referred to the Committee on House Oversight. **Page H2585**

Amendments: Amendments ordered printed pursuant to the rule appear on pages H2590–93.

Senate Messages: Message received from the Senate on Friday, May 9 by the Clerk appears on page H2495.

Quorum Calls—Votes: One yea-and-nay vote and five recorded votes developed during the proceedings of the House today and appear on pages H2563, H2564, H2564–65, H2565–66, H2566, and H2567–68. There were no quorum calls.

Adjournment: Met at 12:30 a.m. and adjourned at 8:46 p.m.

Committee Meetings

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT

Committee on Commerce: Subcommittee on Energy and Power approved for full Committee action H.R. 629, Texas Low-Level Radioactive Waste Disposal Compact Consent Act.

Prior to this action, the Subcommittee held a hearing on this measure. Testimony was heard from Representatives Barton of Texas, Reyes, Bonilla and Green; and public witnesses.

ENDOWMENT FOR THE ARTS

Committee on Education and the Workforce: Subcommittee on Early Childhood, Youth and Families and the Subcommittee on Oversight and Investigations held a joint hearing on the Endowment for the Arts. Testimony was heard from Representatives Armey, Stearns, Doolittle, Lewis of Kentucky, Houghton, Slaughter and Nadler; Jane Alexander, Chairman, National Endowment for the Arts; and public witnesses.

TREATMENT OF INSIDE SALES PERSONNEL AND PUBLIC SECTOR VOLUNTEERS UNDER FAIR LABOR STANDARDS ACT

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing on the treatment of inside sales personnel and public sector volunteers under the Fair Labor Standards Act. Testimony was heard from Representative Myrick; and public witnesses.

EXPORT TRADE ADMINISTRATION—FUTURE

Committee on International Relations: Subcommittee on International Economic Policy and Trade held a hearing on the Future of the Export Trade Administration. Testimony was heard from William Reinsch, Under Secretary, Bureau of Export Administration, Department of Commerce; Thomas E. McNamara, Assistant Secretary, Bureau of Politico-Military Affairs, Department of State; Michael Wallerstein, Deputy Acting Secretary, Counter Proliferation Policy, International Security Policy, Department of Defense; and public witnesses.

VOLUNTEER PROTECTION ACT; PRIVATE IMMIGRATION BILL

Committee on the Judiciary: Ordered reported amended H.R. 911, Volunteer Protection Act of 1997.

The Committee also considered a private immigration bill.

OVERSIGHT—FBI

Committee on the Judiciary: Subcommittee on Crime held an oversight hearing on the activities of the Federal Bureau of Investigation. Testimony was heard from the following officials of the Department of Justice: Michael R. Bromwich, Inspector General; Frederic Whitehurst, Supervisory Special Agent, Donald Thompson, Acting Assistant Director and James Maddock, Deputy General Counsel, all with the FBI; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Immigration and Claims held a hearing on the following bills: H.R. 231, to improve the integrity of the Social Security card and to provide for criminal penalties for fraud and related activity involving work authorization documents for purposes of the Immigration and Nationality Act; H.R. 429, NATO Special Immigration Amendments of 1997; H.R. 471, Illegal Alien Employment Disincentive Act of 1997; and H.R. 1493, to require the Attorney General to establish a program in local prisons to identify, prior to arraignment, criminal aliens and aliens who are unlawfully present in the United States. Testimony was heard from Representatives Pickett, Gallegly and McCollum; Paul Virtue, Acting Executive Associate Commissioner, Programs, Immigration and Naturalization Service, Department of Justice; Sandy Crank, Associate Commissioner, Policy and Planning, SSA; and public witnesses.

EMERGENCY SUPPLEMENTAL ACT FOR FY 1997

Committee on Rules: Granted, by voice vote, an open rule providing one hour of general debate on H.R. 1469, 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia, equally divided and controlled by the Chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule provides that the amendment printed in the rule and the amendment printed in Part 1 of the Rules Committee report shall be considered as adopted. The rule waives all points of order against provisions in

the bill for failure to comply with clause 2 (prohibiting unauthorized or legislative provisions in a general appropriations bill) and clause 6 (prohibiting reappropriations in a general appropriations bill) of Rule XXI, except as specified in the rule. The rule also waive all points of order against each amendment printed in Part 2 of the Rules Committee report which may be offered in the order specified, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall be offered only by the member designated in the report, and is not amendable. The rule accords priority in recognition to those Members who have pre-printed their amendments in the Congressional Record prior to their consideration. The rule also allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce the vote to five minutes on a postponed question provided that the vote follows a fifteen minute vote. The rule waives points of order against all amendments for failure to comply with clause 2(e) of rule XXI (prohibiting non-emergency designated amendments to be offered to an appropriations bill containing an emergency designation). Finally, the rule provides one motion to recommit, with or without instructions. Testimony was heard from Chairman Livingston, Representatives Sabo, Miller of Florida, Nethercutt, Neumann, McHugh, Ramstad, Spence, Gilman, Shuster, Goodling, Barcia, Roukema, Gekas, Smith of Oregon, Morella, Shays, Stearns, Crapo, Jackson-Lee, McKeon, Riggs, Coburn, Foley, Weldon of Florida, Obey, Kennedy of Rhode Island, Kleczka, Kaptur, Olver, Meek of Florida, Dingell, Oberstar, Cannon, Norton, Peterson of Minnesota, Condit, Harmon, Stupak, Maloney of New York, Wynn, Romero-Barceló, Pomeroy, Jones, Minge, Strickland, Barr of Georgia, Davis of Virginia, Hilleary, and Thune.

URBAN EMPOWERMENT

Committee on Small Business: Subcommittee on Empowerment held a hearing on regulatory, tax, and licensing initiatives that empower businesses and citizens in impoverished communities. Testimony was heard from Representative Weller; and the following Mayors: Paul Helmke, Fort Wayne, Indiana and Victor Ashe, Knoxville, Tennessee; and a public witness.

Hearings continue May 20.

BRIEFING—CHINA

Permanent Select Committee on Intelligence: Met in executive session to hold a briefing on China. The Committee was briefed by departmental witnesses.

Joint Meetings

NATO ENLARGEMENT

Commission on Security and Cooperation in Europe (Helsinki Commission): Commission resumed hearings to examine the process to enlarge the membership of the North Atlantic Treaty Organization (NATO), receiving testimony from Ernest Petric, Ambassador of the Republic of Slovenia to the United States; Mircea Dan Geoana, Ambassador of Romania to the United States; and Alexandr Vondra, Ambassador of the Czech Republic to the United States.

Commission recessed subject to call.

COMMITTEE MEETINGS FOR WEDNESDAY, MAY 14, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on Treasury, Postal Service, and General Government, to hold hearings on proposed budget estimates for fiscal year 1998 for the Office of National Drug Control Policy, 9:30 a.m., SD–192.

Committee on Commerce, Science, and Transportation, to hold hearings to examine program efficiencies at the Department of Commerce, 9:30 a.m., SR–253.

Subcommittee on Oceans and Fisheries, to hold hearings on S. 39, to revise the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources, business meeting, to consider pending calendar business, 9:30 a.m., SD–366.

Committee on Rules and Administration, to hold hearings on the campaign finance system for presidential elections, focusing on the growth of soft money and other effects on political parties and candidates, 9:30 a.m., SR–301.

Select Committee on Intelligence, to hold closed hearings on intelligence matters, 2 p.m., SH–219.

Full Committee, to resume closed hearings on the nomination of George John Tenet, of Maryland, to be Director of Central Intelligence, 2:30 p.m., SH–219.

House

Committee on Agriculture, Subcommittee on Department Operations, Nutrition, and Foreign Agriculture, hearing to review the information technology procurement practices of the USDA, 9:30 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Education, on Secretary of Labor, 10 a.m., 2358 Rayburn.

Committee on Banking and Financial Services, to continue hearings on Financial Modernization, including H.R. 10, Financial Services Competitiveness Act of 1997, 10 a.m., 2128 Rayburn.

Committee on the Budget, to mark up the Fiscal Year 1998 Budget Resolution, 2 p.m., 210 Cannon.

Committee on Commerce, Subcommittee on Finance and Hazardous Materials, hearing on Financial Services Reform, focusing on Consolidation in the Brokerage Industry, 10 a.m., 2322 Rayburn.

Committee on Education and the Workforce, to mark up H.R. 1377, Savings Are Vital to Everyone's Retirement Act of 1997, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on National Security, International Affairs, and Criminal Justice, hearing on National Guard Support in the Fight Against Illegal Drugs, 1 p.m., 2154 Rayburn.

Committee on House Oversight, to consider pending business, 10:30 a.m., 1310 Longworth.

Committee on International Relations, Subcommittee on the Western Hemisphere, hearing on the Caribbean: An Overview, 9:30 a.m., 2200 Rayburn.

Committee on the Judiciary, to mark up of the following measures: H.R. 695, Security and Freedom Through Encryption (SAFE) Act; and H.J. Res. 54, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, 1:30 p.m., 2141 Rayburn.

Subcommittee on Commercial and Administrative Law, hearing on H.R. 1494, Apprehension of Tainted Money Act of 1997, 9:30 a.m., 2226 Rayburn.

Subcommittee on Courts and Intellectual Property, hearing on H.R. 1252, Judicial Reform Act of 1997, 9 a.m., 2237 Rayburn.

Committee on Rules, to consider H.R. 1486, Foreign Policy Reform Act, 2 p.m., H–313 Capitol.

Committee on Science, hearing on Department of Energy Posture, 1 p.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on Commercial Vessel Safety, 2 p.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Benefits, hearing on operations within the VA's Compensation and Pension Service using Government Performance and Results Act (GPRA) principles, to review the adequacy of VA's efforts in the processing of Persian Gulf War claims for compensation, and to discuss legislation to limit the liability for compensating and treating veterans with smoking-related diseases, 8:30 a.m., 334 Cannon.

Next Meeting of the SENATE

9:15 a.m., Wednesday, May 14

Senate Chamber

Program for Wednesday: Senate will resume consideration of S. 717, Individuals With Disabilities Education Act, with votes to occur thereon.

Also, Senate will begin consideration of H.R. 1122, Partial-Birth Abortion Ban Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, May 14

House Chamber

Program for Wednesday: Consideration of H.R. 1469, Supplemental Appropriations Act for FY 1997 (open rule, 1 hour of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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